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**ARCHBOLD'S LUNACY AND
MENTAL DEFICIENCY**

ARCHBOLD'S LUNACY AND MENTAL DEFICIENCY

COMPRISING
THE LUNACY ACTS, 1890-1911
THE LANCASHIRE COUNTY (LUNATIC ASYLUMS AND
OTHER POWERS) ACTS, 1891 AND 1902
THE MENTAL DEFICIENCY ACT, 1913
AND ALL THE
STATUTORY RULES, ORDERS AND FORMS
IN FORCE THEREUNDER
THE STATUTES RELATING TO CRIMINAL LUNATICS
THE LUNACY (VACATING OF SEATS) ACT, 1886
AND
THE ASYLUMS OFFICERS' SUPERANNUATION ACT, 1899

FIFTH EDITION

BY
JAMES WILLIAM GREIG

OF LINCOLN'S INN, ONE OF HIS MAJESTY'S COUNSEL

AND

WILLIAM H. GATTIE

OF GRAY'S INN, BARRISTER-AT-LAW

AUTHOR OF "LUNACY PRACTICE, CERTIFICATION AND DETENTION"

LONDON :

BUTTERWORTH & CO., BELL YARD, TEMPLE BAR.

SHAW & SONS, 7 & 8, FETTER LANE, E.C.

SYDNEY : BUTTERWORTH & CO. (AUSTRALIA), LTD.

CALCUTTA : BUTTERWORTH & CO. (INDIA), LTD.

WINNIPEG : BUTTERWORTH & CO. (CANADA), LTD.

WELLINGTON (N.Z.) : BUTTERWORTH & CO. (AUSTRALIA), LTD.

1915.

13341152 8.64

PRINTED BY
WILLIAM CLARKE AND SONS, LIMITED
LONDON AND BRISTOL



PREFACE TO THE FIFTH EDITION.

SINCE the publication of the last edition of this work the law with regard to lunacy and cognate matters has been considerably altered and has become more voluminous owing to the operation of the following new Acts of Parliament: The Lunacy Acts, 1908 and 1911, the Mental Deficiency Act, 1913, the Asylum Officers' Superannuation Act, 1909, and the Lancashire County (Lunatic Asylums) Act, 1902. Additional Lord Chancellor's and Commissioners' Rules have also been prescribed and some of the old rules annulled or altered. The Idioms Act, 1886, has been repealed.

By the Mental Deficiency Act, 1913, the Lunacy Commission has been reconstituted and that body is now styled "The Board of Control," and has now had conferred upon it the powers and duties formerly executed by "The Commissioners in Lunacy." This transfer of powers was effected by the joint operation of the Mental Deficiency Act, 1913, and an Order in Council dated 9th March, 1914. The reconstitution of the Board is dealt with both in Part I. and Part III. of this work.

The general arrangement of the book has been changed as little as possible, but owing to the necessarily great increase of matter the size of the page has been enlarged and the references to the repealed Lunacy Acts have generally been deleted; care has, however, been exercised to retain all matters of historical interest.

Part I. still deals with the Lunacy Acts of 1890 and 1891, and in addition the Acts of 1908 and 1911. The Lancashire County (Lunatic Asylums and other Powers) Act, 1902, is included in this part as before, to which is now added the Act of 1909.

Part II. is devoted to Criminal Lunacy. Practically nothing has been deleted from the previous edition in this part of the work, but a large number of new cases has been added.

Part III. is entirely new and it incorporates the Mental
A.A.

Deficiency Act of 1913, together with references to the Rules of the Home Secretary and other regulations under the Act.

The repealed Idiots Act, 1886, has been removed from the Appendix.

It has been thought desirable to divide the Appendix of the present edition into two parts, the first of which contains the Lunacy (Vacating of Seats) Act, 1886, and the Asylums Officers' Superannuation Act, 1899; and the second, the Rules, Regulations, and certain circular letters, etc., relating to the Mental Deficiency Act.

Some of the more important circulars, and especially those of a recent date and which are of an explanatory or directory nature, from the Commissioners in Lunacy (now the Board of Control), the Home Office, the Local Government Board, the Board of Education, etc., dealing with Lunacy and Mental Deficiency, have been inserted after the Acts, or sections of the Acts, to which they relate, or in Appendix No. II.

All the statutory forms, registers, etc., have been revised, and, together with the Lord Chancellor's and Commissioners' Rules, have been brought up to date.

The decisions in numerous new cases have been added, and many doubtful points of construction in the various Acts have been cleared up.

Additional extracts from the Reports of the Commissioners in Lunacy have been incorporated. These extracts are in some instances accompanied by the opinion of the Law Officers of the Crown upon points of law which have been the subject of controversy.

In view of the length of the book it has been thought desirable to re-model the system of indexing adopted in previous editions. The General Index has accordingly been rearranged by the editors, and great pains have been taken to secure accuracy and rapidity of reference. An Index of Statutes has been added and the Table of Cases enlarged.

J. W. GREIG.

3, NEW SQUARE,
LINCOLN'S INN.

WILLIAM H. GATTIE.

3, PLOWDEN BUILDINGS,
TEMPLE.

TABLE OF CONTENTS.

<i>Preface</i>	PAGE v
<i>Table of Abbreviations</i>	xi
<i>Table of Statutes</i>	xv
<i>Table of Cases</i>	xxiii

PART I.

INTRODUCTION TO THE LUNACY ACTS, 1890-1911.

PRELIMINARY	1
<small>CHAPTER:</small>	
I. THE BOARD OF CONTROL	3
II. INSTITUTIONS FOR LUNATICS	5
III. RECEPTION ORDERS	28
IV. CARE AND TREATMENT AND VISITATION	58
V. EXPENSES OF CHARGEABLE LUNATICS	111
VI. LUNACY REGULATION	127

LUNACY ACT, 1890.

PRELIMINARY	155
(Part I.)	
RECEPTION OF LUNATICS	156
(Part II.)	
CARE AND TREATMENT	200
(Part III.)	
JUDICIAL INQUISITION AS TO LUNACY	241
(Part IV.)	
JUDICIAL POWERS OVER PERSON AND ESTATE OF LUNATICS	250
(Part V.)	
THE COMMISSIONERS IN LUNACY	300

	(Part VI.)		
VISITORS OF LUNATICS	- - - - -		PAGE 307
	(Part VII.)		
VISITATION	- - - - -		319
	(Part VIII.)		
LICENSED HOUSES AND HOSPITALS	- - - - -		337
	(Part IX.)		
COUNTY AND BOROUGH ASYLUMS	- - - - -		355
	(Part X.)		
EXPENSES OF PAUPER LUNATICS	- - - - -		390
	(Part XI.)		
PENALTIES, MISDEMEANORS, AND PROCEEDINGS	- - - - -		428
	(Part XII.)		
MISCELLANEOUS PROVISIONS, DEFINITIONS, REPEAL	- - - - -		442
SCHEDULE, FIRST	- - - - -		456
„ SECOND	- - - - -		456
„ THIRD	- - - - -		469
„ FOURTH	- - - - -		469
	LUNACY ACT, 1891	- - - - -	472
SCHEDULE	- - - - -		489
	LUNACY ACT, 1908	- - - - -	490
	LUNACY ACT, 1911	- - - - -	492
LANCASHIRE COUNTY (LUNATIC ASYLUMS AND OTHER POWERS) ACT, 1891.			
INTRODUCTION	- - - - -		493
	(Part I.)		
PRELIMINARY	- - - - -		497
	(Part II.)		
LUNATIC ASYLUMS BOARD	- - - - -		498
SCHEDULE, FIRST	- - - - -		514
„ SECOND	- - - - -		515
„ THIRD	- - - - -		515
„ FOURTH	- - - - -		516
LANCASHIRE COUNTY (LUNATIC ASYLUMS) ACT, 1902.			
INTRODUCTION	- - - - -		517
	(Part I.)		
ALTERATION OF BASIS OF CONTRIBUTION	- - - - -		521

TABLE OF CONTENTS.

ix

(Part II.)

	PAGE
FINANCE - - - - -	523
SCHEDULE - - - - -	525
RULES MADE BY THE COMMISSIONERS IN LUNACY, 26TH JUNE, 1895 -	526
FORMS UNDER RULES - - - - -	542
RULES MADE BY THE COMMISSIONERS IN LUNACY, 31ST OCTOBER, 1906	556
FORMS UNDER RULES - - - - -	558
RULES MADE BY THE COMMISSIONERS IN LUNACY, 4TH DECEMBER, 1912	562
RULES MADE BY THE COMMISSIONERS IN LUNACY, 12TH MARCH, 1913 -	564
REGULATION MADE BY THE COMMISSIONERS IN LUNACY, 25TH JUNE, 1913 (AS TO MECHANICAL RESTRAINT) - - - - -	564
RULES MADE BY LORD CHANCELLOR, 29TH MARCH, 1890 - - -	568
RULES MADE BY THE SECRETARY OF STATE, 31ST MARCH, 1890 - -	569
CIRCULAR LETTER OF COMMISSIONERS IN LUNACY TO MANAGERS OF INSTITUTIONS FOR LUNATICS, 16TH APRIL, 1890 - - - -	570
CIRCULAR LETTER OF COMMISSIONERS IN LUNACY, 19TH APRIL, 1893— PROVISIONS OF THE LAW AS TO SINGLE PATIENTS - - - -	578
APPENDIX THERETO - - - - -	584
CIRCULAR LETTER OF LOCAL GOVERNMENT BOARD TO BOARDS OF GUARDIANS, 23RD APRIL, 1890 - - - - -	586
GENERAL ORDER OF LOCAL GOVERNMENT BOARD, 15TH SEPTEMBER, 1892	599
SCHEDULE THERETO - - - - -	601
GENERAL ORDER OF THE LOCAL GOVERNMENT BOARD, 24TH MARCH, 1893 (LANCASHIRE ASYLUMS BOARD) - - - - -	616
SCHEDULE THERETO - - - - -	619
RULES IN LUNACY, 6TH FEBRUARY, 1892 - - - - -	636
SCHEDULE THERETO - - - - -	66
RULES IN LUNACY, 15TH JUNE, 1893 - - - - -	667
SCHEDULE THERETO - - - - -	670
RULES IN LUNACY, 29TH OCTOBER, 1900 - - - - -	670
RULE OF THE SUPREME COURT, 2ND FEBRUARY, 1912 - - - -	671
TREASURY ORDER, 11TH AUGUST, 1892 - - - - -	671

PART II.

CRIMINAL LUNATICS.

INTRODUCTORY - - - - -	673
CRIMINAL LUNATICS ACT, 1800 - - - - -	691

	PAGE
CRIMINAL LUNATICS ACT, 1838 - -	694
LUNATICS REMOVAL (INDIA) ACT, 1851 - -	697
CRIMINAL LUNATIC ASYLUMS ACT, 1860 - -	703
SCHEDULE THERETO - - - - -	709
TRIAL OF LUNATICS ACT, 1883 - -	710
SCHEDULE THERETO - - - - -	713
COLONIAL PRISONERS' REMOVAL ACT, 1884 -	714
CRIMINAL LUNATICS ACT, 1884 - -	720
SCHEDULE, FIRST - - - - -	735
„ SECOND - - - - -	736

PART III.

MENTAL DEFICIENCY ACT, 1913.

INTRODUCTORY - - - - -	737
(Part I.)	
POWER AND MANNER OF DEALING WITH DEFECTIVES - - -	747
(Part II.)	
CENTRAL AND LOCAL AUTHORITIES - - - - -	780
(Part III.)	
CERTIFICATION AND PROVISION OF INSTITUTIONS, ETC. - - -	796
(Part IV.)	
GENERAL—OFFENCES, LEGAL PROCEEDINGS, ETC. - - -	811
SCHEDULE - - - - -	822
APPENDICES - - - - -	823

ABBREVIATIONS

USED IN THIS WORK.

A. C.	Appeal Cases, Law Reports
A. & E.	Adolphus and Ellis's Reports
Ambl.	Ambler's Reports
App. Cas.	Appeal Cases, Law Reports
B. & Ad.	Barnewall and Adolphus' Reports
B. & Ald.	Barnewall and Alderson's Reports
B. & C.	Barnewall and Cresswell's Reports
B. & S.	Best and Smith's Reports
Beav.	Beavan's Reports
Burr.	Burrow's Reports
C. A.	Court of Appeal
C. B.	Common Bench Reports
C. C. A.	Court of Criminal Appeal
C. C. R.	Crown Cases Reserved, Law Reports
C. M. & R.	Crompton, Meeson, and Roscoe's Reports
C. P.	Common Pleas
C. & P.	Carrington and Payne's Reports
Camp.	Campbell's Reports
Ca. t. Talbot	Cases temp. Talbot
Cf.	Compare
Ch.	Chancery Division
Coop. temp. Cott.	C. P. Cooper's Cases temp. Cottenham
Cox, C. C.	E. W. Cox's Criminal Law Cases
Cr. App.	Criminal Appeal
Cr. & P.	Craig & Phillips' Reports
D. P. C.	Dowling's Practice Reports
D. & L.	Danson and Lloyd's Reports
De G.	De Gex Reports, Bankruptcy
De G. & J.	De Gex and Jones' Reports
De G. & S.	De Gex and Smale's Reports
De G. F. & J.	De Gex, Fisher, and Jones' Reports
De G. J. & S.	De Gex, Jones, and Smith's Reports
De G. M. & G.	De Gex, Macnaghten, and Gordon's Reports
Dear. C. C.	Dearsly's Crown Cases, Reserved
Den. C. C.	Denison's Crown Cases

Dowl.	..	..	Dowling's Reports
E. & B.	..	..	Ellis and Blackburn's Reports
E. & E.	..	..	Ellis & Ellis's Reports
Exch.	..	..	Exchequer Reports
Ex. D.	..	..	Exchequer Division
F. & F.	..	..	Foster and Finlason's Reports
G. & D.	..	..	Gale and Davison's Reports
H. & T.	..	..	Hall and Twell's Reports
H. L.	..	..	Law Reports, House of Lords
Har.	..	..	Hare's Reports
Hagg. Cons.	..	..	Haggard's Consistorial Reports
How. St. Tr.	..	..	Howell's State Trials
I. R.	..	..	Irish Reports
Ir. Eq.	..	..	Irish Reports, Equity
J. P.	..	..	Justice of the Peace Reports
Jac.	..	..	Jacob's Reports
Johns.	..	..	Johnson's Reports
Jur.	..	..	Jurist Reports
K. B.	..	..	King's Bench
K. & J.	..	..	Kay and Johnson's Reports
Keb.	..	..	Keble's Reports
Kenyon	..	..	Kenyon's Notes of Cases
L. G. R.	..	..	Local Governments Reports
L. J. Bkey.	..	..	Law Journal Bankruptcy
L. J. Ch.	..	..	Law Journal Reports, Chancery
L. J. C. P.	..	..	Law Journal Common Pleas
L. J. Ex.	..	..	Law Journal Exchequer
L. J. K. B. or Q. B.	..	..	Law Journal King's Bench or Queen's Bench
L. J. M. C.	..	..	Law Journal Magistrates' Cases
L. J. N. C.	..	..	Law Journal Notes of Cases
L. J. P. & D.	..	..	Law Journal Probate and Divorce
L. J. P. & M.	..	..	Law Journal Probate and Matrimonial Cases
L. R.	..	..	Law Reports
L. R. Eq.	..	..	Law Reports, Equity Cases
L. R. Q. B.	..	..	Law Reports, Queen's Bench
L. T.	..	..	Law Times Reports
L. T. Jo.	..	..	Law Times Journal
L. & C.	..	..	Leigh and Cave Crown Cases Reserved
Lofft.	..	..	Lofft's Reports
M. & W.	..	..	Meeson and Welesby's Reports
Mac. & G.	..	..	Macnaghten and Gordon's Report
Macq. H. L.	..	..	Macqueen's Scotch Appeals, House of Lords
Mer.	..	..	Merivale's Reports
Mod.	..	..	Modern Reports
Myl. & Cr.	..	..	Mylne and Craig's Reports
N. R.	..	..	New Reports
New Sess.	..	..	New Sessions Magistrates' Cases
(N. S.)	..	..	New Series
(O. S.)	..	..	Old Series
P. & D.	..	..	Perry and Davison's Reports
P. D.	..	..	Probate Division

Phill.	..	..	Phillimore's Reports
Q. B.	..	..	Queen's Bench Reports
R.	..	..	The Reports
R. L.	..	..	Rules in Lunacy
Russ. & Myl.	..	..	Russell and Mylne's Reports
Russ. & Ry.	..	..	Russell and Ryan's Crown Cases Reserved
Sayer	..	..	Sayer's Reports
Sol. Jo. or S. J.	..	..	Solicitors' Journal
Sm. & G.	..	..	Smale and Giffard's Reports
St. Tr.	..	..	State Trials
Sw.	..	..	Swabey's Reports
Sw. & Tr.	..	..	Swabey and Tristram's Reports
T. & M.	..	..	Temple and Mew's Criminal Appeal Cases
T. L. R.	..	..	The Times Law Reports
T. R.	..	..	Term Reports, Durnford and East
Tyr.	..	..	Tyrwhitt's Reports
Vent.	..	..	Ventris' Reports
Ves.	..	..	Vesey Jun.'s Reports
Ves. Sen.	..	..	Vesey Sen.'s Reports
Ves. & B.	..	..	Vesey and Beam's Reports
W. N.	..	..	Weekly Notes
W. R.	..	..	Weekly Reporter
West cas. t. Hardw.			West's Reports temp. Hardwicke
Willes	..	..	Willes' Reports
Wilmot	..	..	Wilmot's Notes of Opinions and Judgments
. & Coll.	..	..	Younge and Collyer's Reports

TABLE OF STATUTES.

	PAGE
1 Geo. 1, c. 10.	(Queen Anne's Bounty Act, 1714), s. 9 . 274
17 Geo. 2, c. 5	(Vagrant Act, 1744), s. 20 . 355
14 Geo. 3, c. 49.	(Regulation of Madhouses Act, 1774), s. 25 . 230
39 & 40 Geo. 3, c. 94	(Criminal Lunatics Act, 1800) . 691-696
42 Geo. 3, c. 116.	(Land Tax Redemption Act, 1802)—
	s. 14 . 267
	s. 53 . 267
48 Geo. 3, c. 55.	(House Tax Act, 1808) . 327
c. 96.	(Lunatics (Paupers or Criminals) Act, 1808) . 355
9 Geo. 4, c. 40.	(Lunatic Asylums & Pauper or Criminals
	Maintenance Act, 1828) . 355, 401
5 Geo. 4, c. 71.	(Lunatics (Paupers or Criminals) Act, 1824), s. 4 419
9 Geo. 4, c. 40.	(Lunatic Asylums & Pauper or Criminals
	Maintenance Act, 1828), s. 41 . 401
9 Geo. 4, c. 40.	(Lunatic Asylums & Pauper or Criminals
	Maintenance Act, 1828), s. 46 . 419
9 Geo. 4, c. 41.	(Treatment of Insane Persons Act, 1828), s. 37 230
11 Geo. 4 & 1 Will. 4, c. 47.	(Debts Recovery Act, 1830), ss. 11 & 12 . 276
c. 65.	(Lunatics, etc., Property Act, 1830), s. 26 . 274
2 & 3 Will. 4, c. 64.	(Parliamentary Boundaries Act, 1832) . 400
c. 107.	(Care & Treatment of Insane Persons Act,
	1832) . 230
3 & 4 Will. 4, c. 74.	(Fines and Recoveries Act, 1833)—
	s. 33 . 282
	s. 48 . 282
4 & 5 Will. 4, c. 76.	(Poor Law Amendment Act, 1834) . 394
	s. 45 . 183
	s. 56 . 406
	s. 81 . 421
5 & 6 Will. 4, c. 62.	(Statutory Declarations Act, 1835) . 287
c. 76.	(Municipal Corporations Act, 1835), s. 117 . 401
1 & 2 Vict. c. 14.	(Criminal Lunatic Asylums Act, 1838) . 694-696
c. 110.	(Judgments Act, 1838)—
	s. 14 . 264
	s. 18 . 266
2 & 3 Vict. c. 60.	(Debts Recovery Act, 1839)—
	s. 1 . 276
	s. 2 . 276
3 & 4 Vict. c. 54.	(Criminal Lunatics Act, 1840)—
	s. 1 . 703
	s. 2 . 730
	s. 3 . 703
c. 82.	(Judgments Acts, 1840), s. 1 . 264
c. 90.	(Care and Education of Infant Felons Act,
	1840), s. 1 . 750
5 & 6 Vict. c. 35.	(Income Tax Act, 1842) . 327
7 & 8 Vict. c. 101.	(Poor Law Amendment Act, 1844)—
	s. 39 . 424, 427
	s. 56 . 173

		PAGE
S & 9 Vict. c. 18.	(Lands Clauses Consolidation Act, 1845)	371, 513
	s. 7	272
c. 100.	(Lunacy Act, 1845)	215, 230, 726
	s. 90	428
	s. 99	438
	s. 105	439
c. 126	(Lunatic Asylums Act, 1845)	355, 401
	s. 58	398
	s. 59	401
	s. 62	419, 421
	s. 64	404
9 & 10 Vict. c. 66.	(Poor Removal Act, 1846)	395, 405
	s. 1	405, 406, 408, 820
	s. 2	407
	s. 3	407
	s. 4	407
	s. 5	407
11 & 12 Vict. c. 43.	(Summary Jurisdiction Act, 1848) (commonly called Jervis' Act)	410, 436
	s. 19	436
	s. 21	436
	s. 35	396, 412, 425
c. 111	(Poor Removal Act, 1848)	405, 406
12 & 13 Vict. c. 45.	(Quarter Sessions Act, 1849) (Baines' Act)—	
	s. 3	421, 422
	s. 4	423
	s. 7	422
	s. 9	423
c. 82.	(Boroughs (Relief from County Expenditure) Act, 1849)—	
	s. 2	401, 402
	s. 3	401
c. 103.	(Poor Law Amendment Act, 1849)—	
	s. 4	395, 405, 407
	s. 5	405, 408
	s. 16	415
13 & 14 Vict. c. 21.	(Lord Brougham's Act, 1850)—	
	s. 1	696
	s. 4	259
c. 43.	(Court of Chancery and Lancaster Act, 1850)—	
	s. 12	413, 414
	s. 23	262, 414
c. 60.	(Trustee Act, 1850)—	
	s. 2	450, 488
	s. 3	275, 289, 290
	s. 4	290
	s. 32	281
c. 101.	(Poor Law Amendment Act, 1850), s. 5	409
14 & 15 Vict. c. 36.	(Duties on Inhabited Houses Act, 1851)	385
c. 81.	(Lunatics' Removal (India) Act, 1851)	697—702
c. 83.	(Chancellor and Privy Council Administra- tion Act, 1851)	251
15 & 16 Vict. c. 55.	(Trustee Act, 1852)	282
	s. 11	251
	s. 13	290
c. 81.	(County Rate Act, 1852)	506
c. 85.	(Burial Act, 1852)—	
	s. 32	370
	s. 34	370
c. 87.	(Proceedings in Chancery Act, 1852), s. 15	251, 282
16 & 17 Vict. c. 70.	(Lunacy Regulation Act, 1853)	251
	s. 1	274

		PAGE
16 & 17 Vict. c. 70.	(Lunacy Regulation Act, 1853)— <i>continued</i> .	
	s. 2	251
	s. 47	245
	s. 118	269
	s. 119	276
	s. 124	270, 272
	s. 125	270
	s. 128	274
	s. 129	273
	s. 137	280
	s. 141	288
e. 96.	(Lunacy Act, 1853)—	
	s. 9	433
	s. 34	433
c. 97.	(Lunatic Asylums Act, 1852—3) .	355, 401, 726
	s. 7	477
	s. 67	177, 181, 726
	s. 68	177, 181, 726
	s. 82	221
	s. 98	404
	s. 99	404
	s. 108	419
	s. 124	384
	s. 131	477
c. 134.	(Burial of the Dead Act, 1853) .	369
c. 137.	(Charitable Trusts Act, 1853), s. 28 .	294
17 & 18 Vict. c. 94.	(Consolidated Fund Act, 1854), s. 7 .	342
c. 104.	(Merchant Shipping Act, 1854) .	453
18 & 19 Vict. c. 105.	(Lunacy Act, 1855), s. 14 .	401
c. 128.	(Burial Act, 1855), s. 7 .	370
20 & 21 Vict. c. 35.	(Burial Act, 1857)—	
	s. 3	370
	s. 5	370
c. 77.	(Probate Act, 1857), s. 73 .	417
c. 81.	(Burial Act, 1857), s. 17 .	370
21 & 22 Vict. c. 90.	(Medical Act, 1858) .	721
	s. 27	451
	s. 36	385
	s. 46	451
c. 106.	(Government of India Act, 1858)—	
	s. 42	699
	s. 64	700
	s. 65	700
22 & 23 Vict. c. 49.	(Poor Law (Payment of Debts) Act, 1859)—	
	s. 1	426
	s. 4	426
	s. 5	424, 427
23 & 24 Vict. c. 75.	(Criminal Lunatics Asylum Act, 1860). .	703—709
	s. 2	732
	s. 10	730
c. 105.	(Prisons (Scotland) Administration Act, 1860) .	727
c. 106.	(Lands Clauses Consolidation Act, 1860) .	371
c. 145.	(Trustees Act, 1860), s. 27 .	281
24 & 25 Vict. c. 55.	(Poor Removal Act, 1861)—	
	s. 1	405, 408, 820
	s. 2	405, 408
	s. 3	405, 408
25 & 26 Vict. c. 54.	(Lunacy (Scotland) Act, 1862), s. 23 .	727
c. 86.	(Lunacy Regulation Act, 1862) .	454
	s. 3	245
	s. 11	243, 254
	s. 12	290, 417

		PAGE
25 & 26 Vict. c. 103.	(Union Assessment Committee Act, 1862), s. 15	373
c. 111.	(Lunacy Act, 1862)— s. 40	205
	s. 45	401, 402
27 & 28 Vict. c. 29.	(Criminal Lunatics Act, 1864)	703
	s. 4	730
	s. 5	730
c. 43.	(Government Annuities Act, 1864), s. 16	443
c. 105.	(Poor (Settlement) Act, 1864)	405
	s. 1	408
	s. 2	408
28 & 29 Vict. c. 37.	(County of Sussex Act, 1865)	359
c. 79.	(Union Chargeability Act, 1865), s. 8	405, 820
c. 126.	(Prison Act, 1865), s. 57	703
29 & 30 Vict. c. 51.	(Lunacy (Scotland) Act, 1866), s. 6	239
c. 113.	(Poor Law Amendment Act, 1866), s. 17	405
30 & 31 Vict. c. 6.	(Metropolitan Poor Act, 1867)	183, 454
c. 12.	(Metropolitan Poor Act, 1867), s. 30	454
	(Criminal Lunatics Act, 1867)— s. 2 (3)	732
	s. 4	707
	s. 6	706
c. 87.	(Court of Chancery (Officers) Act, 1867), s. 13	251
c. 106.	(Poor Law Amendment Act, 1867)— s. 22	183, 186, 473
	s. 23	391, 477
	s. 27	392, 393, 483
31 & 32 Vict. c. 9.	(Consolidated Fund Act, 1867—8), s. 1.	342
c. 122.	(Poor Law Amendment Act, 1868), s. 14	391
32 & 33 Vict. c. 18.	(Lands Clauses Consolidation Act, 1869)	371
c. 67.	(Valuation (Metropolis) Act, 1869), s. 4	373
c. 91.	(Courts of Justice (Salaries and Funds) Act, 1869), s. 14	257
33 & 34 Vict. c. 71.	(National Debt Act, 1870)— s. 19	286
	s. 73	287
c. 77.	(Juries Act, 1870), s. 9	385
34 & 35 Vict. c. 22.	(Lunacy Regulation (Ireland) Act, 1871), s. 68	284
c. 66.	(The Private Chapels Act, 1871)— s. 1	386
	s. 2	386
	s. 3	386
35 & 36 Vict. c. 44.	(Chancery Funds Act, 1872)	452
	s. 4	264
	s. 6	264
c. 65.	(Bastardy Law Amendment Act, 1872), ss. 3—5	774, 775
36 & 37 Vict. c. 66.	(Judicature Act, 1873)— s. 17	252
	s. 18	256
	s. 18 (5)	252
	s. 49	256
37 & 38 Vict. c. 42.	(Building Societies Act, 1874), s. 36	292
c. 88.	(Registration Act, 1874)— s. 10	536
	s. 16	235
	s. 17	236
	s. 20	536, 562
	s. 48	536
c. 96.	(Statute Law Revision Act, 1874) (No. 2), 694, 695, 696	

TABLE OF STATUTES.

xix

		PAGE
38 & 39 Vict. c. 55.	(Public Health Act, 1875)	510
	s. 175	799 <i>et seq.</i>
	s. 176	799 <i>et seq.</i>
	s. 177	799 <i>et seq.</i>
	s. 178	799 <i>et seq.</i>
	s. 236	382
	s. 237	382
	s. 247	479, 480
	s. 250	479, 480
	s. 251	510
	s. 297	786, 787
	s. 298	786, 787
c. 60.	(Friendly Societies Act, 1875), s. 15 (6)	293
c. 67.	(Lunatic Asylums (Ireland) Act, 1875)	240
	s. 12	728
c. 77.	(Judicature Act, 1875)—	
	s. 7	252
	s. 26	298
c. 83.	(Local Loans Act, 1875)	382
39 & 40 Vict. c. 17.	(Partition Act, 1876), s. 6	272
c. 18.	(Treasury Solicitor Act, 1876), s. 3	430
c. 22.	(Trade Union Act Amendment Act, 1876),	
	s. 4	293
c. 59.	(Appellate Jurisdiction Act, 1876), s. 1	252
c. 61.	(Divided Parishes and Poor Law Amendment	
	Act, 1876)—	
	s. 20	410
	s. 23	414
	s. 26	391
	s. 34	407
40 & 41 Vict. c. 18.	(Settled Estates Act, 1877), s. 49	271, 273
c. 21.	(Prison Act, 1877), s. 9	721
c. 43.	(Justices' Clerks Act, 1877), s. 8	176
c. 53.	(Prisons (Scotland) Act, 1877)	727
c. 59.	(Colonial Stock Act, 1877), s. 6	287
41 & 42 Vict. c. 42.	(Tithe Rentcharge Amendment Act, 1878),	
	s. 1	372
42 Vict. c. 12.	(Poor Law Amendment Act, 1879), s. 1	414
42 & 43 Vict. c. 19.	(Habitual Drunkards Act, 1879), s. 3	751
c. 49.	(Summary Jurisdiction Act, 1879)	436
	s. 4	434, 708
	s. 21	436
	s. 29	806, 807
	s. 31	436
	s. 54	396, 412, 425
c. 58.	(Public Offices Fees Act, 1879), s. 3	299
c. 78.	(Supreme Court of Judicature (Officers) Act,	
	1879)—	
	ss. 15—16	257
	s. 21	257
43 & 44 Vict. c. 41.	(Burial Act, 1880), s. 11	236
44 Vict. c. 2.	(Burial and Registration Acts (Doubts	
	Removal) Act, 1881)	236
44 & 45 Vict. c. 41.	(Conveyancing Act, 1881), s. 31	281
c. 58.	(Army Act, 1881), s. 91	182, 411
c. 68.	(Supreme Court of Judicature Act, 1881), s. 20	257
45 & 46 Vict. c. 38.	(Settled Land Act, 1882)—	
	s. 38	296
	s. 45	271
	s. 62	271, 273
c. 50.	(Municipal Corporations Act, 1882)	401, 479, 498
	s. 12	311
	s. 22	310, 312, 323, 498, 499, 500, 501, 502

	PAGE
45 & 46 Vict. c. 50.	(Municipal Corporations Act, 1882)— <i>continued</i>
	s. 27 480
	s. 28 480
	s. 139 793
	s. 140 793
	s. 153 402
	s. 233 480
c. 51.	(Government Annuities Act, 1882), s. 9 . . . 443
46 & 47 Vict. c. 15.	(Lands Clauses (Umpire) Act, 1883) . . . 371
c. 29.	(Supreme Court of Judicature (Funds, etc.) Act, 1883) 452
c. 38.	(Trial of Lunatics Act, 1883) . . . 710—713
c. 39.	(Statute Law Revision Act, 1883) . . . 299
47 & 48 Vict. c. 31.	(Colonial Prisoners' Removal Act, 1884), ss. 1, 10, 11, 12, 16, 17, 18 . . . 714—719
c. 43.	(Summary Jurisdiction Act, 1884), s. 5. . . 436
c. 46.	(Naval Enlistment Act, 1884), s. 3 . . . 182
c. 58.	(Prosecution of Offences Act, 1884), s. 2 . . 430
c. 61.	(Judicature Act, 1884), s. 14 . . . 256
c. 64.	(Criminal Lunatics Act, 1884) . . . 720—736
48 & 49 Vict. c. 30.	(Local Loans Sinking Funds Act, 1885) . . 382
c. 69.	(Criminal Law Amendment Act, 1885)— s. 5 (2) 435, 815
	s. 10 814, 815
49 Vict. c. 16	(Lunacy (Vacating of Seats) Act, 1886) . . 824—826
49 & 50 Vict. c. 25.	(Idiots Act, 1886) 339, 447
	s. 7 819
	s. 16 819
c. 27.	(The Guardianship of Infants Act, 1886) . . 750
c. 48.	(Medical Act, 1886) 385, 721
c. 48.	(Medical Act, 1886), Part II., ss. 11—18 . . 451
50 & 51 Vict. c. 67.	(Superannuation Act, 1887), s. 12 . . . 443
c. 71.	(The Coroners Act, 1887)— s. 3 235
	s. 18 (6). 236
	s. 22 236
	s. 45 235
51 & 52 Vict. c. 3.	(Statute Law Revision Act, 1898) . . . 692
c. 41.	(Local Government Act, 1888) . . . 354, 359, 380, 479
	s. 2 311
	s. 24 (2) (f) 219, 390, 394
	s. 24 (2) (g) 403
	s. 24 (5). 220, 394
	s. 31 359
	s. 32 (3) (c) 362
	s. 32 (3) (d) 402
	s. 33 (2) 505, 511
	s. 34 220, 394
	s. 35 (2). 402
	s. 35 (6). 309
	s. 37 402
	s. 38 391
	s. 46 359
	s. 54 512
	s. 62 362, 478, 513
	s. 65 356, 371, 372, 799
	s. 66 345
	s. 68 793
	s. 69 367, 381, 793, 794, 795
	s. 69 (4). 510
	s. 69 (5). 509
	s. 69 (6). 509

	PAGE
51 & 52 Vict. c. 41.	(Local Government Act, 1888)— <i>continued</i> .
	s. 71 479, 508
	s. 75 310, 323, 498
	s. 80 375, 504
	s. 82 312
	s. 86 (4). 477
	s. 86 (8). 311
	s. 100 220, 359, 394
	s. 109 507
c. 43.	(County Courts Act, 1888), s. 146 <i>et seq.</i> 415
c. 46.	(Oaths Act, 1888) 259, 437
c. 57.	(Statute Law Revision Act, 1888) (No. 2) 694, 696
52 & 53 Vict. c. 3.	(Army Act, 1889), s. 5 182
c. 41.	(Lunacy Act, 1889) 248
	s. 21 (10) 454
	s. 35 428
	s. 82 435
c. 47.	(Palatine Court of Durham Act, 1889), s. 6 414
c. 56.	(Poor Law Act, 1889), s. 1 778
c. 63.	(Interpretation Act, 1889)—
	s. 1 342
	s. 3 165, 259, 437, 450, 799
	s. 4 448
	s. 8 692, 696
	s. 10 696
	s. 11 455, 713, 735
	s. 12 166
	s. 12 (2). 201
	s. 12 (3). 194
	s. 12 (4). 452, 734
	s. 12 (9). 713
	s. 12 (14) 353
	s. 13 (1). 244
	s. 13 (10) (7) (6) 436
	s. 13 (11) 441
	s. 16 448, 797
	s. 18 (3). 256
	s. 19 342
	s. 23 371
	s. 26 159, 196, 210, 437
	s. 31 445
	s. 37 446
	s. 38 455, 726, 734
c. 72.	(Infectious Diseases (Notification) Act, 1889),
	s. 4 383
53 Vict. c. 5	(Lunacy Act, 1890) 155—471
53 & 54 Vict. c. 45.	(Police Act, 1890)—
	s. 7 (2) 443
	s. 7 (3) 443
	s. 7 (4) 443
c. 67.	(Police (Scotland) Act, 1890), s. 7 443
c. 90.	(Partnership Act, 1890), s. 35 (<i>a</i>). 270
54 & 55 Vict. c. 5.	(Army Act, 1891), s. 6 182, 411
c. 20.	(The Lancashire County (Lunatic Asylums and Other Powers) Act, 1891) 493—516
c. 39.	(Stamp Act, 1891)—
	s. 54 290
	s. 62 290
c. 65.	(The Lunacy Act, 1891) 472—489
c. 68.	(County Councils (Elections) Act, 1891) 310
	s. 1 (2) 499
55 & 56 Vict. c. 10.	(Short Titles Act, 1892) 697, 703
c. 19.	(Statute Law Revision Act, 1892) 697

		PAGE
56 & 57 Vict. c. 39.	(Industrial and Provident Societies Act, 1893)—	
	s. 29	287
	s. 30	287
	s. 31	293
c. 53.	(Trustee Act, 1893)	281, 282, 295
	s. 26	289, 290
	s. 35 (6)	453
	s. 40	295
	s. 41	256
	s. 50	451, 452, 488
	s. 51	295
c. 61.	(Public Authorities Protection Act, 1893)—	
	s. 1	439
	s. 2	439
c. 66.	(Rules' Publication Act, 1893)	446, 706
c. 73.	(Local Government Act, 1894), s. 24 (3)	448
57 & 58 Vict. c. 3.	(Army Act, 1894), s. 5	182
c. 10.	(Trustee Act, 1893; Amendment Act, 1894), s. 2	256
c. 46.	(Copyhold Act, 1894), s. 45	278
c. 60.	(Merchants' Shipping Act, 1894)	453
61 & 62 Vict. c. 36.	(Criminal Evidence Act, 1898), s. 4	815
c. 60.	(Inebriates' Act, 1898), s. 1	768
62 & 63 Vict. c. 32.	(The Elementary Education (now Defective and Epileptic Children) Act, 1899)	748, 791
	s. 2	752, 753
	s. 11	754
	s. 14	822
c. 37.	(Poor Law Act, 1889), s. 1	750
63 & 64 Vict. c. 15.	(Burial Act, 1900), s. 4	369
2 Edw. 7, c. 42.	(Education Act, 1902), s. 1	790
c. 56.	(The Lancashire County (Lunatic Asylums) Act, 1902)	517—525
7 Edw. 7, c. 24.	(Limited Partnership Act, 1907), s. 6 (2)	270
8 Edw. 7, c. 40.	(Old Age Pensions Act, 1908), s. 3 (1) (b)	443
c. 47.	(Lunacy Act, 1908)	490—491
c. 49.	(Statute Law Revision Act, 1908)	378, 455, 488
c. 67.	(Children's Act, 1908)—	
	s. 21	751
	s. 38 (2)	813
	s. 44	767, 768
	ss. 44—93	751
	s. 58	763, 764, 765
	s. 108	766, 767
	s. 125	773, 774
	s. 127	773
	s. 131	822
9 Edw. 7, c. 48.	(Asylums Officers Superannuation Act, 1909)	827—836
1 & 2 Geo. 5, c. 40.	(Lunacy Act, 1911)	492
3 & 4 Geo. 5, c. 28.	(Mental Deficiency Act, 1913)	747—822
c. 31.	(Industrial & Provident Societies (Amendment) Act, 1913), s. 7	287
c. 38.	(Mental Deficiency and Lunacy (Scotland) Act, 1913), s. 19 (1)	238

TABLE OF CASES.

A.

	PAGE
—, <i>Re</i> , (1881), 18 Ch. D. 26; 45 L. T. 57	243, 320
A, <i>Re</i> , [1904] 2 Ch. 328; [1904] W. N. 151; 73 L. J. (CH.) 648; 91 L. T. 238; 53 W. R. 2, C. A.	281
A. B., <i>Re</i> , [1899] W. N. 233, C. A.	267
Adams, <i>Re</i> (1864), 4 De G. J. & S. 182; 9 L. T. 626; 12 W. R. 291; 10 Jur. (N. S.) 137; 3 N. R. 339	261
Affleck v. Affleck (1856), 3 Sm. & G. 394	274
Albo's Trusts, <i>Re</i> (1863), 7 L. T. 778; 11 W. R. 80	288
All Saints Poplar v. Middlesex (Clerk of the Peace) (1860), 2 E. & E. 829; 24 J. P. 661	403
Anderdon v. Burrows (1830), 4 C. & P. 210	438
Andrews v. Cawthorne (1744), Willes 536	370
— v. Symson (1675), 3 Keb. 504, 523, 527; 1 Vent. 274	370
Angelo, <i>Re</i> (1852), 5 De G. S. 271	453
Anon (1807), 13 Ves. 590	265
Armfield, <i>Re</i> (1889), 88 L. T. Jo. 97; [1889] W. N. 208	252
Armstrong, <i>Re</i> (1858), 2 De G. & J. 123	247
— (George) & Sons, <i>Re</i> , [1896] 1 Ch. 536; 65 L. J. (CH.) 258; 74 L. T. 134; 44 W. R. 281	264, 655
Arnott, <i>Re</i> (1891), 35 Sol. J. 623	273
Arrowsmith's Trusts, <i>Re</i> (1858), 27 L. J. (CH.) 704; 4 Jur. (N. S.) 1123; 6 W. R. 642	297
Attorney-General v. Colney Hatch Lunatic Asylum (1868), L. R. 4 Ch. 147; 38 L. J. (CH.) 265; 19 L. T. 708	375
Ayles v. Cox (1854), 17 Beav. 584	291, 646
Aytoun, <i>Re</i> , [1901] W. N. 165	283

B.

B., <i>Re</i> (1839), 1 Ir. Eq. 181	249
— <i>Re</i> (No. 1), [1891] 3 Ch. 274; 60 L. J. (CH.) 776; 65 L. T. 205; 40 W. R. 9, C. A.	244
— <i>Re</i> (No. 3), [1892] 3 Ch. 194; 61 L. J. (CH.) 487; 67 L. T. 62, C. A.	244, 660
— <i>Re</i> (No. 2), [1902] 1 Ch. 459; 61 L. J. (CH.) 446; 66 L. T. 38; 40 W. R. 360, C. A.	244
B. A. S., <i>Re</i> , [1898] 2 Ch. 392; 67 L. J. (CH.) 453; 78 L. T. 638	261
Baggs, <i>Re</i> , [1894] 2 Ch. 416; 68 L. J. (CH.) 612; 71 L. T. 138	274
Baldwin, <i>In the goods of</i> (1891), 55 J. P. 344	417
— v. Smith, [1900] 1 Ch. 588; 69 L. J. (CH.) 336; [1900] W. N. 58; 82 L. T. 616; 48 W. R. 346	276
Barber, <i>Re</i> (1888), 39 Ch. D. 187; 57 L. J. (CH.) 756; 58 L. T. 756; 37 W. R. 172	450

	PAGE
Bariatiniski (Princess), <i>Re</i> (1844), 1 Phill. 375; 13 L. J. (CH.) 386; 8 Jur. 157	241
Barker, <i>Re</i> (1881), 17 Ch. D. 241; 50 L. J. (CH.) 334; 44 L. T. 33; 29 W. R. 873	277
Barns v. Islington (1912), 76 J. P. 11	412
Bath Union v. Paddington (1898), 62 J. P. 521	399
Bathe, <i>Re</i> , [1891] 3 Ch. 274; 60 L. J. (CH.) 766; 65 L. T. 205; 40 W. R. 9	243, 246
——— <i>Re</i> , [1892] 1 Ch. 459; 61 L. J. (CH.) 446; 66 L. T. 38; 40 W. R. 369	243, 246
Beavan, <i>Re</i> , Davies, Banks & Co. v. Beavan, [1912] 1 Ch. 196; 81 L. J. (CH.) 113; 105 L. T. 784	268
Beecham, <i>Ex parte</i> , [1901] P. 65; 84 L. T. 63	209
Belton, <i>Re</i> (1913), 108 L. T. 344; [1913] W. N. 63; 29 T. L. R. 313; 57 Sol. Jo. 543	266
Bennett, <i>Re</i> , Greenwood v. Bennett, [1913] 2 Ch. 318; 82 L. J. (CH.) 506; 109 L. T. 302	254, 650
Beridge, <i>Re</i> (1883), 50 L. T. 653	268
Bethell, <i>Re</i> , [1899] W. N. 47; 63 J. P. 453; 80 L. T. 492	412
Biddle, <i>Re</i> (1854), 23 L. J. (CH.) 23; 22 L. T. 19; 2 W. R. 50	646
Birkenhead Union v. Brookes (1906), 95 L. T. 358; 70 J. P. 72; 22 T. L. R. 583	772
Birmingham v. Beaumont (1858), 8 E. & B. 870; 27 L. J. (M. C.) 181; 4 Jur. (N. S.) 868	401
Blackmore, <i>Re</i> (1863), 1 De G. J. & S. 84; 32 L. J. (CH.) 436; 8 L. T. (N. S.) 264; 9 Jur. (N. S.) 90; 1 N. R. 187	248
Blake, <i>Re</i> , W. N. (1887), 173	281
Blewitt, <i>Re</i> (1856), 6 De G. M. & G. 187; 25 L. J. (CH.) 393; 2 Jur. (N. S.) 217	282
Bligh, <i>Re</i> (1879), 12 Ch. D. 364; 49 L. J. (CH.) 56; 41 L. T. 570; 27 W. R. 876	262
Borras, <i>Re</i> (1912), B. No. 244 (Unreported)	289
Bowmer, <i>Re</i> (1859), 3 De G. & J. 658; 28 L. J. (CH.) 618; 33 L. T. 4; 7 W. R. 313; 5 Jur. (N. S.) 348	281
Bradford, <i>Ex parte</i> (1737), West Cas. t. Hardw. 133	280
Bradford Union v. Wiltshire (1868), L. R. 3 Q. B. 604; 37 L. J. (M. C.) 129; 18 L. T. 514; 16 W. R. 1197	396
Brandon's Trusts, <i>Re</i> (1879), 13 Ch. D. 773; 41 L. T. 755	262
Brewer, <i>Re</i> (1875), 1 Ch. D. 409; 34 L. T. 466	272
Bristol v. Barton Regis (1891), 66 L. T. 190; 56 J. P. 311	449
Bristow v. Booth (1869), L. R. 5 C. P. 80; 39 L. J. (C. P.) 47; 29 L. T. 427; 18 W. R. 138	291
Brockwell v. Bullock (1889), 22 Q. B. D. 567; 58 L. J. (Q. B.) 289; 37 W. R. 455; 53 J. P. 405; 54 J. P. 19	243, 254
Brookshaw v. Hopkins (1773), Loft. 235, 240	230, 438
Brown, <i>Re</i> , [1895] 2 Ch. 666; 64 L. J. (CH.) 808; 73 L. T. 375; 44 W. R. 17; 12 R. 587	289
——— <i>Re</i> , [1900] 1 Ch. 489; 82 L. T. 83; 48 W. R. 461; [1900] W. N. 37	263, 265
Browne, <i>Re</i> , [1894] 3 Ch. 412; 63 L. J. (CH.) 729; 71 L. T. 365; 43 W. R. 175	261, 487, 642, 650
Bruère, <i>Re</i> (1881), 17 Ch. D. 775; 45 L. T. 290; 30 W. R. 223	253
Brunner v. Moore, [1904] 1 Ch. 305; 73 L. J. (CH.) 377; 89 L. T. 738; 52 W. R. 295; 20 T. L. R. 125	636
Bryant v. Foot (1868), L. R. 3 Q. B. 497; 37 L. J. (Q. B.) 217; 18 L. T. 587; 16 W. R. 808; 9 B. & S. 444	370
Buchanan v. Hardy (1887), 18 Q. B. D. 486; 51 J. P. 47; 56 L. J. (M. C.) 42; 35 W. R. 453	433
Buckingham, <i>Re</i> (1876), 2 Ch. D. 690, C. A.	272
Buckley, <i>Re</i> (1860), 1 Johns. 700	413
Budd v. Foulks (1813), 3 Camp. 404	429
Burbidge, <i>Re</i> , [1902] 1 Ch. 426; [1902] W. N. 44; 71 L. J. (CH.) 271; 86 L. T. 331; 18 T. L. R. 347, C. A.	241, 637

TABLE OF CASES.

XXV

	PAGE
Burton, <i>Re</i> (1851), 21 L. J. (CH.) 221	254
——— <i>v.</i> Eyden (1873), L. R. 8 Q. B. 295; 37 J. P. 693; 42 L. J. (M. C.) 115; 38 L. T. 408	407, 415
Byrne, <i>In the goods of</i> (1888), 52 J. P. 281	416

C.

C, <i>Re</i> (1874), L. R. 10 Ch. App. 75; 23 W. R. 377	255
C. M. G., <i>Re</i> , [1898] 2 Ch. 324; 67 L. J. (CH.) 468; 78 L. T. 669, C. A.	294
Cahen, <i>Ex parte</i> (1879), 10 Ch. D. 183; 27 W. R. 387; 39 L. T. 645	265
Caistor Union <i>v.</i> Cleaver (1891), 56 J. P. 503	415
Calne Union <i>v.</i> Wilts County Council, [1911] 1 K. B. 717; 80 L. J. (K. B.) 548; 104 L. T. 607; 75 J. P. 42; 9 L. G. R. 5	219
Campbell, <i>Re</i> (1868), 18 L. T. 202	296
Canadian Prisoners' Case (1839), 5 M. & W. 32; 3 St. Tr. (N. S.) 963, 1031	231
Carr's Trusts, <i>Re Carr v. Carr</i> , [1904] 1 Ch. 792; 73 L. J. (CH.) 459; 90 L. T. 592; 52 W. R. 595	641
Caswells <i>v.</i> Sheen, [1893] W. N. 187; 69 L. T. 854	291
Cathcart, <i>Re</i> , [1892] 1 Ch. 558	255
——— <i>Re</i> , [1893] 1 Ch. 469; 62 L. J. (CH.) 320; 68 L. T. 358; 41 W. R. 277	241, 252, 255, 256
Cawse <i>v.</i> Nottingham Lunatic Hospital, [1891] 1 Q. B. 585; 60 L. J. (Q. B.) 485; 65 L. T. 155; 39 W. R. 461; 55 J. P. 582	327
Chertsey <i>v.</i> Surrey (1893), 69 L. T. 384; 57 J. P. 372, 807; 5 R. 532	182
Child, <i>Ex parte</i> (1854), 15 C. B. 238	231
Clabbon, <i>Re</i> , [1904] 2 Ch. 465; 68 J. P. 588; 73 L. J. (CH.) 853; 91 L. T. 316; 53 W. R. 43; 20 T. L. R. 712; 2 L. G. R. 1292	402, 773
Clarke, <i>Ex parte</i> (1822), Jac. 595	643
——— <i>Re</i> , [1898] 1 Ch. 336; 67 L. J. (CH.) 234; 78 L. T. 275; 46 W. R. 337; 14 T. L. R. 274	263, 641
——— <i>v.</i> Bradlaugh (1881), 8 Q. B. D. 6; 46 J. P. 278; 51 L. J. (Q. B.) 1; 46 L. T. 49; 30 W. R. 53	637
Cleaver <i>v.</i> McKenna (1865), 35 L. J. P. & M. 91	416
Clyde, <i>Re</i> , [1889] W. N. 43	288
Coleman's Trusts (1866), 14 L. T. 587	413
Colling, <i>Re</i> (1886), 32 Ch. D. 333; 55 L. J. (CH.) 486; 54 L. T. 809; 34 W. R. 464	454
Collins, <i>Re</i> (1842), 6 Jur. 545	253
Combs, <i>Re</i> (1885), 51 L. T. 45	296
Congreve <i>v.</i> Upton Overseers (1864), 4 B. & S. 857; 33 L. J. (M. C.) 83; 9 L. T. 684; 10 Jur. (N. S.) 538; 12 W. R. 403	385
Cook <i>v.</i> Ward (1877), 2 C. P. D. 255; 41 J. P. 439; 36 L. T. 893; 25 W. R. 593	502
Cooper <i>v.</i> Jones (1855), 25 L. J. (CH.) 240; 2 Jur. (N. S.) 59	291
Corbett, <i>Re</i> (1866), L. R. 1 Ch. 516; 35 L. J. (CH.) 793; 14 L. T. 748	270
Cranmer, <i>Ex parte</i> (1806), 12 Ves. 445	242
Crawford, <i>Re</i> (1835), 1 Myl. & Cr. 240	259
Crompte, <i>Re</i> (1869), L. R. 4 Ch. 653	242
Crowe, <i>Re</i> (1871), L. R. 13 Eq. 26; 41 L. J. (CH.) 32	291
Cumming, <i>Re</i> (1852), 1 De G. M. & G. 537; 21 L. J. (CH.) 753; 16 Jur. (N. S.) 483	242, 246
——— <i>Re</i> (1852), 5 De G. M. & G. 30; 23 L. J. (CH.) 261; 18 Jur. 181	255
——— <i>Re</i> (1860), 2 De G. F. & J. 376; 30 L. J. (CH.) 29; 3 L. T. 391; 7 W. R. 213	255

D.

DANEY, <i>Re</i> (1885), 30 Ch. D. 320; 55 L. J. (CH.) 583; 63 L. T. 850; 34 W. R. 125	241, 245
--------------------------------------------------------------------------------------------------	----------

	PAGE
Darling, <i>Re</i> (1888), 39 Ch. D. 208; 57 L. J. (CH.) 891; 59 L. T. 761	268
Davenport's Charity (1855), 4 De G. M. & G. 839	294
Davies v. Thomas, [1900] 2 Ch. 462; 69 L. J. (CH.) 643; 83 L. T. 11; 49 W. R. 68, C. A.	642
Davy, <i>Re</i> , [1892] 3 Ch. 38; 61 L. J. (CH.) 578; 67 L. T. 180; 41 W. R. 96	253, 641
Dell, <i>Re</i> (1891), 35 Sol. Jo. 783; 91 L. T. Jo. 375	231
Devenish v. Brown (1856), 26 L. J. (CH.) 23; 2 Jur. (N. S.) 1043	314, 367, 371
Dewar v. Maitland (1866), L. R. 2 Eq. 834	454
Dewhurst's Trusts, <i>Re</i> (1886), 33 Ch. D. 416; 55 L. J. (CH.) 842; 55 L. T. 427; 35 W. R. 147	450
Dieconson, <i>Re</i> (1880), 15 Ch. D. 316; 29 W. R. 222	272
Donisthorpe, <i>Re</i> (1874), L. R. 10 Ch. 55; 44 L. J. (CH.) 536	454
Draper's Settlement, <i>Re</i> (1861), 9 W. R. 805	295
Drax, <i>Re</i> , [1903] 1 Ch. 781; 72 L. J. (CH.) 508; [1903] W. N. 66; 88 L. T. 510; 51 W. R. 612, C. A.	270
Drewery's Trust, <i>Re</i> (1854), 2 W. R. 436	413
Drysdale, <i>Re</i> (1861), 7 Jur. (N. S.) 667; 9 W. R. 428	292

E.

E. A., Case of (1863), 17th Rept. of Commissioners in Lunacy	190
E. D. S., <i>Re</i> , [1914] W. N. 85; 58 S. J. 338, C. A.	275
E. G., <i>Re</i> (1914), 58 S. J. 497	264, 275
Early, <i>Re</i> (1837), 2 Coop. temp. Cott. 107, n.	643
East, <i>Re</i> (1873), 42 L. J. (CH.) 480	296
East Retford Union v. Strand Union (1862), 3 B. & S. 122; 27 J. P. 229; 32 L. J. (M. C.) 17	407
Eastbourne v. Croydon, [1910] 2 K. B. 16; 74 J. P. 286; 79 L. J. (K. B.) 646; 102 L. T. 595; 26 T. L. R. 447; 8 L. G. R. 503	405, 419
Eaton v. Best, [1909] 1 K. B. 632; 73 J. P. 113; 78 L. J. (K. B.) 425; 100 L. T. 494; 22 Cox C. C. 66; 25 T. L. R. 244	751
Eccles, <i>In the goods of</i> (1889), 15 P. D. 1; 54 J. P. 55; 61 L. T. 652	417
Edwards, <i>Re</i> (1879), 10 Ch. D. 605; 48 L. J. (CH.) 233; 40 L. T. 113; 27 W. R. 611	262, 297, 414
Evans, <i>Re</i> (1882), 21 Ch. D. 297; 46 L. T. 785; 30 W. R. 645	268
Everley, <i>In the goods of</i> (1892), P. 50; 61 L. J. P. & D. 53; 65 L. T. 765	417

F.

F, <i>Re</i> (1863), 2 De G. J. & S. 89; 33 L. J. (CH.) 333; 9 L. T. 698	255
Faircloth, <i>Re</i> (1879), 13 Ch. D. 307; 28 W. R. 481	261
Farnham, <i>Re</i> (No. 1), [1895] 2 Ch. 730	266
———, <i>Re</i> (No. 2), [1896] 1 Ch. 836; 60 J. P. 389; 65 L. J. (CH.) 456; 74 L. T. 214; 44 W. R. 465	266, 641
Farrow, <i>Ex parte</i> (1829), 1 Russ. & Myl. 112	253
Fell, <i>Re</i> (1846), 3 D. & L. 373; 15 L. J. (M. C.) 25	189
Felstead v. Rex, [1914] W. N. 179; 30 T. L. R. 471; 58 Sol. Jo. 515; 10 Cr. App. R. 129	711
Fennell v. Tait (1834), 1 C. M. & R. 584; 5 Tyr. 218; 3 D. P. C. 161	434
Finch v. York Union Guardians (1876), 2 Q. B. D. 15; 68 J. P. 538; 46 L. J. (M. C.) 120; 35 L. T. 360; 708; 25 W. R. 42	396, 397
Fitch v. Bermondsey Guardians, [1905] 1 K. B. 524; 69 J. P. 102; 74 L. J. (K. B.) 250; [1905] W. N. 15; 92 L. T. 343; 53 W. R. 308; 21 T. L. R. 206; 3 L. G. R. 300	391
Fletcher v. Fletcher (1859), 1 E. & E. 420; 5 Jur. (N. S.) 678; 28 L. J. (Q. B.) 124	438
Flitcroft, <i>Re</i> (1855), 1 Jur. (N. S.) 418	291
Fox, <i>Re</i> (1886), 33 Ch. D. 37; 55 L. T. 39; 35 W. R. 81	268
Frank, <i>Re</i> (1826), 2 Russ. 450	253

TABLE OF CASES.

xxvii

	PAGE
Freer, <i>Re</i> (1882), 22 Ch. D. 622; 52 L. J. (CH.) 301; 31 W. R. 426	276
French, <i>Re</i> (1868), L. R. 3 Ch. 317; 27 L. J. (CH.) 537; 18 L. T. 139; 16 W. R. 66	654, 656
Frost, <i>Re</i> (1870), L. R. 5 Ch. 699; 39 L. J. (CH.) 808; 23 L. T. 233; 18 W. R. 986	267, 268
Fuller, <i>Re</i> , [1900] 2 Ch. 551; 69 L. J. (CH.) 738; 83 L. T. 208; 49 W. R. 90	261, 281, 637

G.

GAITSKELL, <i>Re</i> (1889), 40 Ch. D. 416; 58 L. J. (CH.) 262	271
Garnier, <i>Re</i> (1872), L. R. 13 Eq. 532; 41 L. J. (CH.) 419; 25 L. T. 928; 20 W. R. 288	288
Garrod, <i>Re</i> (1885), 31 Ch. D. 164; 55 L. J. (CH.) 311; 54 L. T. 291; 34 W. R. 157	281
Gilbert v. Buzzard (1820), 3 Phill. 360; 2 Hagg. Cons. 333	370
Gilchrist, <i>Re</i> , [1906] W. N. 199, C. A.; [1907] 1 Ch. 1, C. A.	246, 638
Gist, <i>Re</i> (1877), 5 Ch. D. 881; 26 W. R. 222	269
— <i>Re</i> , [1904] 1 Ch. 398; [1904] W. N. 26; 73 L. J. (CH.) 251; 90 L. T. 35; 52 W. R. 422, C. A.	269
— <i>Re</i> , Gist v. Trimbrill, [1906] 2 Ch. 280; 75 L. J. (CH.) 657; 95 L. T. 41; 22 T. L. R. 637	641
Glamorgan v. Cardiff, [1911] 1 K. B. 437; 75 J. P. 28; 80 L. J. (K. B.) 578; 103 L. T. 819; 9 L. G. R. 212, C. A.	396, 398
Grange, <i>Re</i> , Chadwick v. Grange, [1907] 2 Ch. 20; 76 L. J. (CH.) 456; [1907] W. N. 125; 96 L. T. 867; 51 Sol. Jo. 211, C. A.	276
Graydon, <i>Re</i> (1849), 1 Mac. & G. 655; 2 H. & T. 182; 14 Jur. 211	282
Gregon, <i>Re</i> , [1893] 3 Ch. 233; 62 L. J. (CH.) 764; 69 L. T. 73; 41 W. R. 461; 2 R. 513, C. A.	292
Grimmett's Trusts, <i>Re</i> (1887), 56 L. J. (CH.) 419	262
Grimwood v. Bartels (1877), 46 L. J. (CH.) 788; 25 W. R. 143	288

H.

HADFIELD'S Case (1800), 27 Howell's State Trials, 1281	675, 691
Hall v. Semple (1862), 3 F. & F. 336	438, 439
Harris, <i>Re</i> (1880), 49 L. J. (CH.) 327	268, 413
Hartley v. Pendarves, [1901] 2 Ch. 498; [1901] W. N. 158; 70 L. J. (CH.) 745; 85 L. T. 64; 50 W. R. 56	277
Harvey v. R., [1901] A. C. 601; 70 L. J. (P. C.) 107; 84 L. T. 849; 17 T. L. R. 601	297
Harward v. Hackney Union (1898), 14 T. L. R. 306; 62 J. P. 227	180, 438
— <i>Re</i> (1887), 35 Ch. D. 470; 56 L. J. (CH.) 974; 56 L. T. 502; 36 W. R. 27	275
Hastings v. Hurley (1881), 16 Ch. D. 734; 50 L. J. (CH.) 577; 44 L. T. 176; 29 W. R. 440	652
Hendon v. Hampstead (1893), 62 L. J. (M. C.) 170	406, 407
Heston v. St. Bride (1853), 1 E. & B. 583; 22 L. J. (M. C.) 65; 20 L. T. 235; 17 Jur. 757	420
Hewitson, <i>Ex parte</i> (1852), 1 W. R. 58	651
Hey's Will, <i>Re</i> (1852), 9 Ha. 221; 22 L. J. (CH.) 248	291
Hill v. Philp (1852), 7 Exch. 232; 21 L. J. (EX.) 82; 16 Jur. 90	160, 303, 305
Hinchcliffe, <i>Re</i> , [1895] 1 Ch. 117; 64 L. J. (CH.) 76; 43 W. R. 82; 71 L. T. 532; [1894] W. N. 179	644
— <i>Re</i> (No. 2), [1895] W. N. 147 (6); 73 L. T. 522, C. A.	487
Hirst, <i>Re</i> , [1892] W. N. 177, C. A.	271
Hodson v. Pare, [1899] 1 Q. B. 455; 68 L. J. (Q. B.) 309; 80 L. T. 13; 47 W. R. 241; 15 T. L. R. 171	159
Horne v. Pountain (1889), 23 Q. B. D. 264; 58 L. J. (Q. B.) 143; 61 L. T. 51; 38 W. R. 240; 54 J. P. 37	265

	PAGE
Howard, <i>Re</i> (1855), 3 W. R. 605	291
Howlett <i>v.</i> Maidstone, [1891] 2 Q. B. 110; 55 J. P. 549; 60 L. J. (Q. B.) 570; 65 L. T. 448; 40 W. R. 116	363, 477, 478
Hume, <i>Re</i> (1887), 35 Ch. D. 457; 56 L. J. (CH.) 1020; 56 L. T. 351; 36 W. R. 84	652
Hunslet <i>v.</i> Dewsbury (1856), 26 L. J. (M. C.) 3; 28 L. T. 99; 2 Jur. (N. S.) 1207	398
Hunt, <i>Re</i> , [1900] 2 Ch. 54, C. A.	265
— <i>Re</i> , Harvey's Claim, [1902] 2 Ch. 318	641
Hurst, <i>Re</i> (1855), "Seton on Decrees," 7th Edition, p. 1210	291
Huth <i>v.</i> Clarke (1890), 25 Q. B. D. 39; 55 J. P. 86; 59 L. J. (M. C.) 120; 38 W. R. 655	502

I.

IPSWICH <i>v.</i> Macclesfield (1890), 55 J. P. 134; 63 L. T. 526; 39 W. R. 221	394,
— <i>v.</i> West Ham (1887), 20 Q. B. D. 407; 52 J. P. 469; 58 L. T. 419; 36 W. R. 473	409
Islington Guardians <i>v.</i> Biggenden, [1910] 1 K. B. 105; 74 J. P. 17; 79 L. J. (K. B.) 246; 26 T. L. R. 44; 101 L. T. 677; 7 L. G. R. 1159	773
Ives, <i>Re</i> (1863), 3 De G. J. & S. 453; 32 L. J. (CH.) 673; 8 L. T. 266; 9 Jur. (N. S.) 611; 2 N. R. 2; 11 W. R. 578	453

J.

J., <i>Re</i> , [1909] 1 Ch. 574; 78 L. J. (CH.) 340; 100 L. T. 281, C. A.	731
James, <i>Re</i> (1884), 12 Q. B. D. 332; 53 L. J. (Q. B.) 575; 50 L. T. 471	266
Jepson <i>v.</i> Gribble (1876), 1 Ex. D. 151; 45 L. J. (EX.) 502; 34 L. T. 493; 24 W. R. 460	385
Jones, <i>Re</i> (1886), 33 Ch. D. 414; 56 L. J. (CH.) 272; 55 L. T. 498; 35 W. R. 172	289
— <i>v.</i> Green (1868), L. R. 5 Eq. 555; 16 W. R. 203	276
— <i>v.</i> Welsh (1855), 1 K. & J. 765	270
Joyce, <i>Re</i> (1866), L. R. 2 Eq. 576	454
Julius <i>v.</i> Oxford (Bishop) (1880), 5 App. Cas. 214; 49 L. J. (Q. B.) 577; 42 L. T. 546; 28 W. R. 726; 44 J. P. 600	314

K.

KENDALL <i>v.</i> King (1856), 17 C. B. 483; 25 L. J. (C. B.) 132	314
Kershaw, <i>Re</i> (1882), 21 Ch. D. 613; 48 L. T. 51; 31 W. R. 130	643
Kettering Union Guardians <i>v.</i> Northampton Lunatic Asylum (1865), 34 L. J. (M. C.) 198; 11 Jur. (N. S.) 999	397
Killymaenllwydd <i>v.</i> St. Michaels, Pembroke (1851), 21 L. J. (M. C.) 79; 16 J. P. 150	424
King, <i>In the goods of</i> (1893), 58 J. P. 464	416
Knight, <i>Re</i> , [1898] 1 Ch. 257; 67 L. J. (CH.) 136; 77 L. T. 773; 46 W. R. 289, C. A.	289, 642

L.

LAMBETH Guardians <i>v.</i> Bradshaw (1886), 50 J. P. 472; 57 L. T. 86	416
Lamotte, <i>Re</i> (1876), 4 Ch. D. 325; 25 W. R. 149; 46 L. T. 231	253
Langdale, <i>Re</i> , [1901] 1 Ch. 3; 83 L. T. 451; 49 W. R. 177	261, 637
Lanwarne, <i>Re</i> (1881), 46 L. T. 668; 30 W. R. 759	245

TABLE OF CASES.

XXIX

	PAGE
Larragoiti, <i>Re</i> , [1907] 2 Ch. 14	289
Latless v. Holmes (1792), 4 T. L. R. 660	696
Laver v. Botham or Chesterfield Union (1894), 43 W. R. 29; 59 J. P. 454; 29 L. J. Notes of Cases, 629	416
Lawrance v. Galsworthy (1857), 3 Jur. (N. S.) 1049	451
Lawrie v. Lees (1881), 7 App. Cas. 19; 51 L. J. (CH.) 239; 46 L. T. 210; 30 W. R. 185	273
Leavesley, <i>Re</i> , [1891] 2 Ch. 1; 60 L. J. (CH.) 385; 64 L. T. 269; 39 W. R. 276	265
Lee, <i>Re</i> (1883), 23 Ch. D. 216; 48 L. T. 193; 31 W. R. 802	266
Leeds Guardians v. Wakefield Union (1857), 7 E. & B. 258; 26 L. J. (M. C.) 37; 28 L. T. 265; 3 Jur. (N. S.) 292	408
Lemann's Trusts, <i>Re</i> (1883), 22 Ch. D. 633; 52 L. J. (CH.) 560; 48 L. T. 389; 31 W. R. 520	296
Leon, <i>Re</i> , [1892] 1 Ch. 348; 66 L. T. 390	289, 292
Liffin v. Pitcher (1842), 1 Dowl. (N. S.) 767; 6 Jur. 537	528
Liverpool Overseers v. Lancaster Lunatic Asylum (1880), 5 Ex. D. 215; 42 L. T. 591; 28 W. R. 600; 44 J. P. 397	233
London County Council v. Erith, [1893] App. Cas. 562; 57 J. P. 821; 63 L. J. (M. C.) 9; 69 L. T. 725; 42 W. R. 330	373
Lowe v. Fox (1887), 12 App. Cas. 206; 56 L. J. (Q. B.) 480; 56 L. T. 406; 51 J. P. 468; 36 W. R. 25	158, 194, 227
Luce, <i>In the goods of</i> (1890), 54 J. P. 695	416
Lund, <i>Ex parte</i> (1826), 6 Ves. 784	259
Lyne, <i>Ex parte</i> (1735), Ca. t. Talbot, 143; 2 Eq. Cas. Abr. 583	647

M.

MACKINTOSH v. Smith (1865), 4 Macq. H. L. C. 913	195
Maltby, <i>Re</i> (1881), 7 Q. B. D. 18; 45 J. P. 681; 50 L. J. (Q. B.) 413; 44 L. T. 811; 29 W. R. 678; 14 Cox C. C. 609	698
Manchester, Sheffield & Lincolnshire Rly. v. Doncaster Union, [1897] 1 Q. B. 117; 60 J. P. 819; 66 L. J. (Q. B.) 75; 75 L. T. 472; 45 W. R. 82, C. A.	426
Mansell v. Mansell (1802), Wilmot, 51	280
Marman's Trusts, <i>Re</i> (1878), 8 Ch. D. 256; 38 L. T. 797; 26 W. R. 621	268, 413
Martin's Trusts, <i>Re</i> (1887), 34 Ch. D. 618; 56 L. J. (CH.) 695; 56 L. T. 241; 35 W. R. 524	450
Matson, <i>Re</i> , James v. Dickinson, [1897] 2 Ch. 509; 66 L. J. (CH.) 695; 77 L. T. 69	277
Meares, <i>Re</i> (1879), 10 Ch. D. 552; 48 L. J. (CH.) 190; 40 L. T. 111; 27 W. R. 369	255
Melly, <i>Re</i> (1883), 53 L. J. (CH.) 248; 49 L. T. 429	267
Merthyr Tydvil Guardians v. Cambrian Lodge (1881), 45 J. P. 220	414
Metropolitan Asylum District v. Hill (1881), 6 App. Cas. 193; 50 L. J. (Q. B.) 353; 44 L. T. 653; 45 J. P. 664; 29 W. R. 617	375
Middlesex (Clerk of the Peace) v. All Saints Poplar (1860), 29 L. J. (M. C.) 186; 2 L. T. 215; 6 Jur. (N. S.) 823	403
Midland Railway v. Edmonton Union, [1895] 1 Q. B. 357, C. A.; [1895] A. C. 485; 60 J. P. 68; 64 L. J. (Q. B.) 710	426
Mile End Old Town Guardians v. Findlay (1863), 3 Sw. & Tr. 265; 33 L. J. P. & M. 21; 9 L. T. 346; 9 Jur. (N. S.) 1253	417
Milnes, <i>Re</i> (1875), 1 Ch. D. 28; 34 L. T. 46	272
Mitchell, <i>Re</i> (1881), 17 Ch. D. 515; 45 L. T. 60	288
Moffat v. Dickson (1853), 13 C. B. 543; 22 L. J. (C. P.) 265; 17 Jur. 1009	366
Monkleigh, <i>Ex parte</i> (1848), 17 L. J. (M. C.) 76	396, 398
Morris v. Atkins (1902), 18 T. L. R. 628	173, 438
——— (Jane) & Morris (Mary), <i>Re</i> , [1912] 1 Ch. 730; 81 L. J. (CH.) 451; 106 L. T. 553	643
Mundel, <i>Re</i> (1860), 8 W. R. 683	488

N.

	PAGE
NEEDHAM <i>v.</i> Bowers (1888), 21 Q. B. D. 436; 59 L. T. 404; 37 W. R. 125	327
Nevill, <i>Re</i> (1885), 31 Ch. D. 161; 55 L. J. (CH.) 435; 54 L. T. 290	280, 281
New Church <i>v.</i> Tottington Lower End (1863), 27 J. P. 245	400
New York Security & Trust Co. <i>v.</i> Keyser, [1901] 1 Ch. 666; [1901] W. N. 14; 70 L. J. (CH.) 330; 84 L. T. 43; 49 W. R. 371; 17 T. L. R. 207	289
New Zealand Trust & Loan Co., <i>Re</i> , [1893] 1 Ch. 403; 62 L. J. (CH.) 262; 68 L. T. 593; 41 W. R. 457	453
Newbigin, <i>Re</i> , Eggleton <i>v.</i> Newbigin (1887), 36 Ch. D. 477; 56 L. J. (CH.) 907; 57 L. T. 390; 36 W. R. 69	412
Nicholls, <i>Re</i> (1870), 22 L. T. 323; 18 W. R. 443	292
Nicholson, <i>Re</i> (1887), 34 Ch. D. 663; 56 L. J. (CH.) 1036; 56 L. T. 770; 35 W. R. 569	290, 291
Norris <i>v.</i> Seed (1849), 3 Exch. 782; 18 L. J. (EX.) 300; 13 Jur. 830	195, 237
North Metropolitan Tramways Co. <i>v.</i> London County Council, [1898] 2 Ch. 145; 62 J. P. 488; 67 L. J. (CH.) 449; 78 L. T. 711; 46 W. R. 554; 14 T. L. R. 414	440
Noyce, <i>Re</i> , [1892] 1 Q. B. 642; 61 L. J. (Q. B.) 628; 66 L. T. 331; 40 W. R. 371; 56 J. P. 564	284

O.

OXFORD Guardians <i>v.</i> Barton (1875), 39 J. P. 725	410
------------------------------------------------------------------	-----

P.

PAGANI'S Trusts, <i>Re</i> , [1892] 1 Ch. 236; 66 L. T. 244, C. A.	290, 454
Parby's Settlement (1857), 29 L. T. (O. S.) 72	295
Pares, <i>Re</i> (1879), 12 Ch. D. 333; 41 L. T. 574; 28 W. R. 193	272
Parker, <i>Re</i> (1854), 2 W. R. 139	413
Parker's Trusts (1863), 32 Beav. 580; 11 W. R. 655	281
Parkes' Trusts, <i>Re</i> (1863), 8 L. T. 378; 9 Jur. (N. S.) 998	281
Paterson <i>v.</i> Paterson (1866), L. R. 2 Eq. 31	291
Peel, <i>Re</i> (1886), 55 L. T. 554; 35 W. R. 81	289, 291
Phelps, <i>Ex parte</i> (1742), 9 Mod. 357	273
Phelps' Settlement Trusts (1885), 31 Ch. D. 351; 55 L. J. (CH.) 465; 54 L. T. 480	450
Phillips, <i>Re</i> (1869), 4 Ch. App. 629; 17 W. R. 904	296
Pickard, <i>Ex parte</i> (1814), 3 Ves. & B. 127	253
Pink, <i>Re</i> (1883), 23 Ch. D. 577; 52 L. J. (CH.) 674; 49 L. T. 418; 31 W. R. 728	263
— <i>v.</i> Sharwood, [1913] 2 Ch. 286; 82 L. J. (CH.) 542; 108 L. T. 1017; [1913] W. N. 211; 57 S. J. 663	645
Platt, <i>Re</i> (1887), 36 Ch. D. 410; 57 L. J. (CH.) 152; 57 L. T. 857; 36 W. R. 273	252
Plenderleith, <i>Re</i> , [1893] 3 Ch. 332; 58 J. P. 164; 62 L. J. (CH.) 993; 69 L. T. 325; 42 W. R. 224	265, 641
Plumpton <i>v.</i> Burkinshaw, [1908] 2 K. B. 572; 77 L. J. (K. B.) 961; 99 L. T. 415; 24 T. L. R. 642; 52 Sol. Jo. 533, C. A.	273
Popham, <i>Re</i> (1880), 44 L. T. 323; 29 W. R. 403	256
Poplar (All Saints) <i>v.</i> Middlesex (Clerk to the Peace) (1860), 24 J. P. 661; 2 E. & E. 829	403
Pountain, <i>Re</i> (1888), 37 Ch. D. 609; 57 L. J. (CH.) 465; 59 L. T. 76	651
Price, <i>Re</i> (1887), 34 Ch. D. 603; 56 L. J. (CH.) 292; 56 L. T. 77; 35 W. R. 340	262
Procter <i>v.</i> Cheshire County Council, W. N. (1891) 24	314
— <i>v.</i> Cheshire County Council (1892), 56 J. P. 532	391, 392
Purvis, <i>Re</i> , [1904] 1 Ch. 373; 73 L. J. (CH.) 281; [1904] W. N. 47	286

R.

	PAGE
<i>R. v. Abramovitch</i> (1912), 76 J. P. 287; 107 L. T. 416	712
— <i>v. Alexander</i> (1914), 9 Cr. App. R. 139, C. C. A.	712, 763
— <i>v. Arnold</i> (1852), 18 Q. B. 553; 21 L. J. (M. C.) 180; 19 L. T. 255; 17 Jur. 300	408
— <i>v. Atherley</i> , [1909] W. N. 251, C. C. A.	711
— <i>v. Bacchus</i> (1860), 2 E. & E. 181; 29 L. J. (M. C.) 56; 6 Jur. (N. S.) 218	401
— <i>v. Barnsley</i> (1849), 12 Q. B. 193; 18 L. J. (M. C.) 170; 13 J. P. 329	176
— <i>v. Bell</i> , [1900] 2 Q. B. 391; 64 J. P. 789; 82 L. T. 711	173
— <i>v. Berry</i> (1876), 1 Q. B. D. 447; 45 L. J. (M. C.) 123	693
— <i>v. Bishop</i> (1880), 5 Q. B. D. 259; 44 J. P. 330; 49 L. J. (M. C.) 45; 42 L. T. 240; 28 W. R. 475; 14 Cox C. C. 404	429
— <i>v. Blackfriars' Overseers</i> (1853), 22 L. J. (M. C.) 137	407
— <i>v. Bloomsbury Overseers</i> (1863), 4 B. & S. 108; 27 J. P. 662; 32 L. J. (M. C.) 217	406
— <i>v. Bruce</i> , [1892] 2 Q. B. 136; 56 J. P. 567; 67 L. T. 314; 40 W. R. 686	215, 396, 397, 398, 406, 408
— <i>v. Buchanan</i> (1902), 56th Rept. of Commissioners in Lunacy	203
— <i>v. Burnby</i> (1843), 5 Q. B. 348; 13 L. J. (M. C.) 29; 8 Jur. 240	436
— <i>v. Cambridge Union</i> (1861), 1 B. S. 61; 30 L. J. (M. C.) 137; 7 Jur. (N. S.) 1073	419
— <i>v. Clarke</i> (1762), 3 Burr. 1362	230
— <i>v. Coate</i> (1772), Lofft. 73, 78	230
— <i>v. Coleman</i> (1912), 7 Cr. App. R. 65, C. C. A.	712
— <i>v. Cornwall</i> (1845), 14 L. J. (M. C.) 46	399, 402, 404
— <i>v. Crediton</i> (1858), 1 E. B. & E. 231; 22 J. P. 722; 31 L. T. 114; 27 L. J. (M. C.) 265; 4 Jur. (N. S.) 926	399, 402
— <i>v. Darton</i> (1840), 12 A. & E. 78	396
— <i>v. Davies</i> (1853), 6 Cox C. C. 326	693
— <i>v. Davis</i> (1754), Sayer, 163	345
— <i>v. Davy</i> (1871), 25th Rept. Commissioners in Lunacy, p. 78	429
— <i>v. Delvin Union</i> , [1908] 2 I. R. 15	392
— <i>v. Dolby</i> , [1892] 2 Q. B. 301; 56 J. P. 599; 61 L. J. (Q. B.) 809; 67 L. T. 296	373, 390
— <i>v. Duke</i> (1908), 62nd Rept. of the Commissioners in Lunacy, p. 63	433
— <i>v. Dyson</i> (1831), 7 C. & P. 305, n.	693
— <i>v. Exeter Overseers</i> (1862), 1 B. & S. 890; 26 J. P. 356; 31 L. J. (M. C.) 77; 5 L. T. 637; 8 Jur. (N. S.) 457	407
— <i>v. Faversham</i> (1863), 2 B. & S. 275; 31 L. J. (M. C.) 116; 6 L. T. 415; 56 J. P. 310	399, 402
— <i>v. Fulham Guardians</i> , [1909] 2 K. B. 504; 73 J. P. 397; 78 L. J. (K. B.) 1081; 101 L. T. 537; 7 L. G. R. 881	412
— <i>v. Glamorganshire Justices</i> , [1892] 1 Q. B. 621; 56 J. P. 437; 61 L. J. (M. C.) 169; 66 L. T. 444; 40 W. R. 436	441
— <i>v. Goode</i> (1837), 7 A. & E. 536	693
— <i>v. Harris</i> (1791), 4 T. R. 202	345
— <i>v. ———</i> (1867), 10 Cox C. C. 541	429
— <i>v. Haslehurst</i> (1884), 13 Q. B. D. 253; 53 L. J. (M. C.) 127; 51 L. T. 95; 48 J. P. 774	385
— <i>v. Hatfield Peverel</i> (1849), 14 Q. B. 298; 18 L. J. (M. C.) 225	176, 393, 400, 402, 404
— <i>v. Hawley</i> (1868), 22nd Rept. Commissioners in Lunacy, p. 63	429
— <i>v. Hereford County Council</i> (1890), 55 J. P. 72; 62 L. T. 638; 38 W. R. 775	388
— <i>v. Herefordshire Justices</i> , 3 B. & Ald. 581	528
— <i>v. Hill</i> (Samuel) (1851), 2 Den. C. C. 254; T. & M. 582; 20 L. J. (M. C.) 222; 5 Cox C. C. 259	434
— <i>v. Hill</i> (1912), 7 Cr. App. 83, C. C. A.	711
— <i>v. Hodges</i> (1838), 8 C. & P. 195	711

	PAGE
<i>R. v. Ireland</i> , [1910] 1 K. B. 654; 74 J. P. 206; [1910] W. N. 35; 26 T. L. R. 267; 54 S. J. 543, C. A.	711
— <i>v. Islington</i> (1862), 3 B. & S. 46; 31 L. J. (M. C.) 233; 9 Jur. (N. S.) 155; 6 L. T. 606	406
— <i>v. Jones</i> (1831), 2 B. & Ad. 611	191
— <i>v. —</i> (1893), 48th Rept. Commissioners in Lunacy, p. 104	432, 812
— <i>v. —</i> , W. N., [1894] 96; 29 L. J. (N. C.) 342	231
— <i>v. Kent Justices</i> (1866), L. R. 1 Q. B. 385; 7 B. & S. 394; 35 L. J. (M. C.) 201; 14 L. T. 331	419
— <i>v. Larkins</i> , [1911] W. N. 118	711
— <i>v. Leeds</i> (1857), 21 J. P. 582	408
— <i>v. Leeds Overseers</i> (1850), 17 L. T. 142	405
— <i>v. Little</i> (1821), Russ. & Ry. 430	693
— <i>v. Liverpool</i> (1860), 29 L. J. (M. C.) 137; 24 J. P. 646; 2 L. T. 173; 6 Jur. (N. S.) 1028	422
— <i>v. Loake</i> (1911), 7 Cr. App. R. 71, C. C. A.	712
— <i>v. London Justices, Ex parte Edmonton Union</i> (1896), 60 J. P. 456	400
— <i>v. Lunacy Commissioners</i> , [1897] 1 Q. B. 630; 61 J. P. 278; 76 L. T. 353; 66 L. J. (Q. B.) 387; 45 W. R. 405	211
— <i>v. Machardy</i> , [1911] 2 K. B. 1144; [1911] W. N. 193; 105 L. T. 556; 55 Sol. Jo. 754; 28 T. L. R. 2	711
— <i>v. McLaren</i> (1913), 9 Cr. App. R. 107	712, 763
— <i>v. Maddock</i> (1851), 5 Cox C. C. x; 6th Rept. Commissioners in Lunacy, p. 19	431, 530
— <i>v. Manchester Guardians</i> (1856), 6 E. & B. 919; 20 J. P. 726; 26 L. J. (M. C.) 1; 28 L. T. (O. S.) 82, 369; 2 Jur. (N. S.) 1205	398, 407, 418
— <i>v. Marshall</i> (1885), 49 J. P. 105	733
— <i>v. Maulden</i> (1828), 8 B. & C. 78	396
— <i>v. Medway Union</i> (1868), L. R. 3 Q. B. 383; 9 B. & S. 439; 37 L. J. (M. C.) 100; 18 L. T. 431	419
— <i>v. Middlesex Asylum's Visiting Justices</i> (1842), 2 Q. B. 433; 2 G. & D. 300; 6 Jur. 682	386
— <i>v. Minster</i> (1850), 14 Q. B. 349	189, 399, 402
— <i>v. Newchurch</i> (1862), 3 B. & S. 107; 32 L. J. (M. C.) 19; 7 L. T. 271; 9 Jur. (N. S.) 536	400
— <i>v. Northampton</i> (1865), 6 B. & S. 653; 13 L. T. 199	397
— <i>v. Norwood</i> (1867), L. R. 2 Q. B. 457; 36 L. J. (M. C.) 91; 31 J. P. 518	346
— <i>v. Ogilvie</i> (1872), 27th Rept. of Commissioners in Lunacy	189
— <i>v. Oxford</i> (1840), 9 C. & P. 525; 4 St. Tr. (N. S.) 497	711
— <i>v. Pelham</i> (1846), 8 Q. B. 959	433
— <i>v. Pemberton</i> (1879), 5 Q. B. D. 95; 44 J. P. 184; 49 L. J. (M. C.) 29; 41 L. T. 664; 28 W. R. 662	393, 410
— <i>v. Pinder</i> (1855), 24 L. J. (Q. B.) 148; 1 Jur. (N. S.) 522	191
— <i>v. Porter</i> (1864), L. & C. 394; 33 L. J. (M. C.) 126; 10 Jur. (N. S.) 517	433
— <i>v. Preston</i> (1883), 11 Q. B. D. 113; 48 J. P. 69; 52 L. J. (M. C.) 97; 49 L. T. 104	407
— <i>v. Price</i> (1840), 11 A. & E. 727	345
— <i>v. —</i> (1884), 12 Q. B. D. 247; 53 L. J. (M. C.) 51; 33 W. R. 45; 15 Cox C. C. 389	370
— <i>v. Pritchard</i> (1836), 7 C. & P. 303	693
— <i>v. Rhyddlan</i> (1850), 14 Q. B. 327; 19 L. J. (M. C.) 110	399, 402
— <i>v. Richardson</i> , [1894] 2 Q. B. 323; 58 J. P. 640; 70 L. T. 805; 42 W. R. 540; 63 L. J. (M. C.) 212	415
— <i>v. Rundle</i> (1854), 1 Dear. C. C. 482; 19 J. P. 293; 24 L. J. (M. C.) 129; 1 Jur. (N. S.) 430; 6 Cox C. C. 549	433
— <i>v. Sainsbury</i> (1791), 4 T. R. 451	302
— <i>v. St. Clement Danes</i> (1863), 7 L. T. 315	407
— <i>v. St. George's, Bloomsbury, Overseers</i> (1863), 4 B. & S. 108; 27 J. P. 662; 32 L. J. (M. C.) 217	406
— <i>v. St. Giles in the Fields' Overseers</i> (1860), 30 L. J. (M. C.) 12; 24 J. P. 756; 3 L. T. 292	409
— <i>v. St. Nicholas, Leicester</i> (1835), 3 A. & E. 79	396

TABLE OF CASES.

xxxiii

	PAGE
<i>R. v. St. Peter, Barton-upon-Humber</i> (1851), 17 Q. B. 630; 21 L. J. (M. C.) 23	420
— <i>v. Salop Justices</i> (1838), 8 A. & E. 173	421
— <i>v. ———</i> (1854), 4 E. & B. 257; 19 J. P. 149; 24 L. J. (M. C.) 14; 18 Jur. 1080	419
— <i>v. Seaton</i> (1881), 35th Rept. Commissioners in Lunacy, p. 125	431
— <i>v. Senior</i> , [1899] 1 Q. B. 283; 63 J. P. 8; 68 L. J. (Q. B.) 175; 79 L. T. 562; 47 W. R. 367; 15 T. L. R. 102	812
— <i>v. Shaw</i> (1868), L. R. 1 C. C. R. 145; 37 L. J. (M. C.) 112; 18 L. T. 583; 16 W. R. 193; 11 Cox C. C. 109	428, 450, 737
— <i>v. Smith</i> (1879), 5 Q. B. D. 96; 49 L. J. (M. C.) 29; 41 L. T. 664; 28 W. R. 662; 44 J. P. 184	176
— <i>v. ———</i> (1913), 8 Cr. App. R. 72, C. C. A.	712
— <i>v. Stafford Prison (Governor), Ex parte Emery</i> , [1909] 2 K. B. 81	434
— <i>v. Staffordshire Justices</i> (1857), 26 L. J. (M. C.) 179; 3 Jur. (N. S.) 1148; 22 J. P. 209	423
— <i>v. ———, Ex parte Ormskirk Union</i> , [1912] 1 K. B. 616; 76 J. P. 177; 81 L. J. (K. B.) 894, C. A.; [1912] W. N. 60; 106 L. T. 579; 10 L. G. R. 274; 56 Sol. Jo. 324	396
— <i>v. Stepney Union</i> (1874), L. R. 9 Q. B. 383; 38 J. P. 549; 43 L. J. (M. C.) 145; 30 L. T. 808; 12 Cox C. C. 331	426
— <i>v. Stewart</i> (1840), 12 A. & E. 773; 10 L. J. (M. C.) 40	370
— <i>v. Swindon, J.J.</i> (1878), 42 J. P. 407	415
— <i>v. Thompson</i> (1866), 20th Rept. of the Commissioners in Lunacy, p. 33	433
— <i>v. Torbock</i> (1872), 27th Rept. of Commissioners in Lunacy	189
— <i>v. Tunncliffe</i> (1907), 61st Rept. Commissioners in Lunacy, p. 69.	816
— <i>v. Turlington</i> (1761), 2 Burr. 1115	230
— <i>v. Tyrwhitt</i> (1848), 17 L. J. (M. C.) 141	399
— <i>v. Wakefield</i> (1883), 48 J. P. 326	176, 405
— <i>v. Walker</i> (1875), L. R. 10 Q. B. 355; 44 L. J. (M. C.) 169; 33 L. T. 167	345
— <i>v. Warwickshire Justices</i> (1859), 28 L. J. (M. C.) 249; 33 L. T. 201; 5 Jur. (N. S.) 1292; 23 J. P. 757	419
— <i>v. West Ward Union</i> (1856), 7 E. & B. 21; 21 J. P. 212; 26 L. J. (M. C.) 29; 3 Jur. (N. S.) 185	408
— <i>v. Whitby Union</i> (1870), L. R. 5 Q. B. 325; 34 J. P. 725; 39 L. J. (M. C.) 97; 22 L. T. 336	406
— <i>v. Whitfield</i> (1885), 15 Q. B. D. 122; 54 L. J. (M. C.) 113; 53 L. T. 96; 49 J. P. 820	175
— <i>v. Wilkins</i> (1865), 19th Rept. Commissioners in Lunacy, p. 36, n.; 30th Rept. App. N.	428
— <i>v. Winster</i> (1850), 14 Q. B. 344	399, 402
— <i>v. Wolverhampton</i> (1849), 14 Q. B. 318; 19 L. J. (M. C.) 25	398
<i>R. S. A., Re</i> , [1901] 2 K. B. 32; [1901] W. N. 58, C. A.	283
<i>Railway Sleeper Supply Company, Re</i> (1885), 29 Ch. D. 204; 54 L. J. (CH.) 720; 52 L. T. 731; 33 W. R. 595	169
<i>Ray, Re</i> , [1896] 1 Ch. 468; 60 J. P. 340; 65 L. J. (CH.) 316; 73 L. T. 723, C. A.	277
<i>Ray's Settled Estates, Re</i> (1884), 25 Ch. D. 464; 53 L. J. (CH.) 205; 50 L. T. 80; 32 W. R. 458	271
<i>Reeves (Elizabeth), In the goods of</i> (1890), 55 J. P. 24	416
<i>Rhodes, Re</i> (1890), 44 Ch. D. 94; 59 L. J. (CH.) 298; 62 L. T. 342; 38 W. R. 385	268
— <i>v. Pately Bridge Union</i> (1884), 51 L. T. 235; 48 J. P. 168	426
<i>Robson v. Robson</i> (1904), 68 J. P. 416	751
<i>Roe v. Nix</i> , [1893] P. 55; 62 L. J. P. & M. 36; 68 L. T. 26	321
<i>Rolls Hoare, Re</i> , W. N. (1888) 94.	281
<i>Rowley v. Adams</i> (1851), 14 Beav. 130	646
<i>Ryan, Re, Ryan v. Ryan</i> , [1911] W. N. 56	263
<i>Ryan's (Mary) Case</i> (1865), 19th Rept. of Commissioners in Lunacy	227
<i>Ryder, Re</i> (1882), 20 Ch. D. 514; 30 W. R. 417	278
— <i>Re</i> (1887), 37 Ch. D. 595; 57 L. J. (CH.) 495; 58 L. T. 783	272, 649

S.

	PAGE
S., <i>Re</i> (1876), 4 Ch. D. 301; 46 L. J. (CH.) 233; 35 L. T. 828; 25 W. R. 133	255
Saffery, <i>Ex parte</i> (1877), 5 Ch. D. 365; 46 L. J. (BKCY.) 99; 36 L. T. 532; 25 W. R. 572	637
St. Andrew's Hospital, Northampton v. Shearsmith (1887), 19 Q. B. D. 624; 57 L. T. 413; 35 W. R. 811	327
Salop County Council, <i>Re</i> (1891), 65 L. T. 416; 56 J. P. 213	361
Salt, <i>Re</i> , [1896] 1 Ch. 117	274
Scarlett, <i>Re</i> (1873), L. R. 8 Ch. 739; 29 L. T. 232; 21 W. R. 717	643
Scott, <i>Re</i> (1884), 27 Ch. D. 116; 54 L. J. (CH.) 194; 51 L. T. 735; 32 W. R. 801	244
—— v. Wakem (1862), 3 F. & F. 328	438
Seaton's (Dr.) Case (1881), 35th Rept. Commissioners in Lunacy, p. 125	530
Sefton (Earl), <i>Re</i> , [1898] 2 Ch. 378; 67 L. J. (CH.) 518; 78 L. T. 765; 14 T. L. R. 466, C. A.	274, 277
Shackleton v. Swift, [1913] 2 K. B. 304; 77 J. P. 241; 82 L. J. (K. B.) 607; 108 L. T. 400; 11 L. G. R. 462	438
Sharpington v. Fulham Guardians, [1904] 2 Ch. 449; [1904] W. N. 146	426
Sheffield Corporation v. Sheffield Electric Light Co., [1898] 1 Ch. 203; 67 L. J. (CH.) 113; 77 L. T. 616; 46 W. R. 485; 62 J. P. 87	198, 770
Shepherd v. Silcock, [1886] W. N. 84	652
Sheppard's Trusts, <i>Re</i> (1862), 1 N. R. 76; 8 Jur. (N. S.) 711	646
Sherras v. de Rutzen, [1895] 1 Q. B. 918; 59 J. P. 440; 64 L. J. (M. C.) 218; 72 L. T. 839; 43 W. R. 526	812
Shortridge, <i>Re</i> , [1895] 1 Ch. 278; 63 J. P. 38; 64 L. J. (CH.) 191; 71 L. T. 799; 43 W. R. 257, C. A.	296
Shuttleworth, <i>Re</i> (1846), 9 Q. B. 651; 16 L. J. (M. C.) 18; 11 Jur. 41; 2 New Sess. 470	189, 231
Slumbers, <i>Re</i> (1865), 4 Sw. & Tr. 32; 34 L. J. P. & M. 93; 12 L. T. 582	261, 417
Smith (Mary), <i>Re</i> (1875), L. R. 10 Ch. 79; 23 W. R. 297	270
—— v. Islington Guardians (1901), 66 J. P. 664	413
Smyth, <i>Ex parte</i> (1818), 2 Sw. 393	280
—— <i>Re</i> (1881), 16 Ch. D. 673; 29 W. R. 585	643
Smyth's Settlement (1851), 4 De G. & S. 499	293
Soltykoff, <i>Re</i> , [1891] 1 Q. B. 413, C. A.; [1898] W. N. 775; 105 L. T. Jo. 335, C. A.	253
Somersetshire (Clerk of the Peace) v. Shipham Overseers (1863), 3 B. & S. 507; 27 J. P. 437; 32 L. J. (M. C.) 83; 7 L. T. 673; 9 Jur. (N. S.) 869	400
Sottomaioir (1873), L. R. 9 Ch. 677	227
South Stafford Tramways v. Sickness, etc., Association, [1891] 1 Q. B. 402; 60 L. J. (Q. B.) 47; 63 L. T. 807; 55 J. P. 168	198, 770
Southcot, <i>Ex parte</i> (1751), 2 Ves. Sen. 405; Ambl. 109	243
Southwell v. Findlay (1863), 27 J. P. 760	417
Sparks, <i>Re</i> (1877), 6 Ch. D. 361	296
Sparrow, <i>Re</i> (1882), 20 Ch. D. 320; 51 L. J. (CH.) 497; 46 L. T. 785; 30 W. R. 373	268, 282
Sparrow's Trusts, <i>Re</i> (1870), 18 W. R. 1185	281
Speed's Case (1883), 37th Rept. Commissioners in Lunacy, p. 108	538
Spittle v. Walton (1871), L. R. 11 Eq. 420; 40 L. J. (CH.) 368; 24 L. T. 18; 19 W. R. 405	434
Sproat v. Peckett (1883), 48 L. T. 755	652
Spry v. Gallop (1847), 16 M. & W. 716; 16 L. J. (EX.) 216	370
Stair's (Countess) Case (1814), 2 Ph. 242	248
Stamp, <i>Ex parte</i> (1846), 1 De G. 345	265
Steneult, <i>Re</i> (1894), 29 L. J. (N. C.) 345	473
Stewart, <i>Re</i> (1860), 8 W. R. 297	292
Strachan, <i>Re</i> , [1895] 1 Ch. 439, C. A.	661
Strangways v. Read, [1898] 2 Ch. 419; 67 L. J. (CH.) 581; 79 L. T. 245; 46 W. R. 671; 14 T. L. R. 508	654
Strickland, <i>Re</i> (1871), L. R. 6 Ch. 226; 24 L. T. 530; 19 W. R. 515	267
Stuart, <i>Re</i> (1859), 4 De G. & J. 319	646

TABLE OF CASES.

XXXV

	PAGE
Suffolk County Lunatic Asylum <i>v.</i> Nottingham Union (1905), 69 J. P. 120; 3 L. G. R. 362	400
— <i>v.</i> Stow Union (1897), 76 L. T. 494; 61 J. P. 328; 45 W. R. 620	396
Summerville, <i>Re</i> (1885), 31 Ch. D. 160; 55 L. J. (CH.) 367; 34 W. R. 185	640, 644, 652
Symm <i>v.</i> Fraser (1862), 3 F. & F. 859	438

T.

TABBART, <i>Ex parte</i> (1801), 6 Ves. 428	273
Talbot, <i>Re</i> (1882), 20 Ch. D. 269; 51 L. J. (CH.) 360; 45 L. T. 730; 30 W. R. 386	242, 249
Tarratt, <i>Re</i> (1883), 51 L. T. 310; 32 W. R. 909	288
Taylor, <i>Re</i> (1849), 1 H. & T. 432; 1 Mac. & G. 210	272
— <i>Re</i> (1883), 52 L. J. (CH.) 728; 49 L. T. 420; 31 W. R. 596	271
— <i>Re</i> , Edmonton Union <i>v.</i> Deely, [1901] 1 Ch. 480; [1901] W. N. 21; 70 L. J. (CH.) 332; 84 L. T. 35	413
Thame <i>v.</i> Wandsworth (1871), 36 J. P. 167	409
Tharp, <i>Re</i> (1876), 3 Ch. D. 59; 35 L. T. 293	282
Thomas's Trusts (1851), 15 Jur. 187	646
Thompson <i>v.</i> Schmidt (1891), 56 J. P. 212; 8 T. L. R. 120	180
Thornton's Trusts, <i>Re</i> (1861), 9 W. R. 475	295
Tomkins, <i>Re</i> (1889), 60 L. T. 402	270
Tottenham, <i>Re</i> (1837), 2 Myl. & Cr. 39	249, 253
Townsend, <i>Re</i> (1852), 21 L. J. (CH.) 747	644
— <i>Re</i> , [1911] W. N. 199	253
Tuer's Will Trusts, <i>Re</i> (1886), 32 Ch. D. 39; 55 L. J. (CH.) 454; 54 L. T. 910; 34 W. R. 751	262
Tye (Joseph), <i>Re</i> , [1900] 1 Ch. 249; [1900] W. N. 8, C. A.	412

U.

UNDERWOOD, <i>Re</i> (1856), 3 K. & J. 745	451
Upfull's Trust (1851), 3 Mac. & G. 281; 21 L. J. (CH.) 119	413
Urry's Case (1886), 40th Rept. Commissioners in Lunacy, p. 74	431, 812

V.

VANE <i>v.</i> Vane (1876), 2 Ch. D. 124; 45 L. J. (CH.) 381; 34 L. T. 613; 24 W. R. 602	262
Vavasour, <i>Re</i> (1885), 29 Ch. D. 306; 53 L. T. 412	269
Viney, <i>Ex parte</i> (1877), 4 Ch. D. 794; 46 L. J. (BKC.) 80; 36 L. T. 43; 25 W. R. 364	637
Vivian <i>v.</i> Little (1883), 11 Q. B. D. 370; 52 L. J. (Q. B.) 771; 48 L. T. 793; 31 W. R. 891	644
Volans <i>v.</i> Carr (1849), 2 De G. & Sm. 242; 12 Jur. 643	288
Vollans' Case (1872), 28th Rept. of the Commissioners in Lunacy	428

W.

WADE, <i>Re</i> (1849), 1 H. & T. 202	267
Walker, <i>Re</i> , [1907] 2 Ch. 120; [1907] W. N. 123; 96 L. T. 864, C. A.	650
— <i>Re</i> , Cr. & P. 147	296
Wandsworth Union <i>v.</i> Worthington, [1906] 1 K. B. 420; [1906] W. N. 34	413
Ward's Estate, <i>Re</i> (1854), 2 W. R. 406	413
Ware, <i>Re</i> , [1892] 1 Ch. 344; 66 L. T. 389	268, 271
Waring <i>v.</i> Griffith (1758), 1 Burr. 441; 2 Kenyon, 183	370
Watkins, <i>Re</i> , [1896] 2 Ch. 336; 60 J. P. 500; 65 L. J. (CH.) 636; 74 L. T. 504; 44 W. R. 609	261

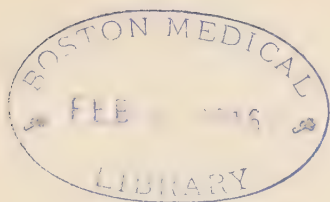
	PAGE
Watson, <i>Ex parte</i> (1821), Jac. 161	643
— <i>Re</i> , Stamford Union v. Bartlett, [1899] 1 Ch. 72	412, 773
Weaver, <i>Re</i> (1882), 21 Ch. D. 615; 48 L. T. 93; 31 W. R. 224	268
Webb, <i>Re</i> (1846), 2 Phill. 10, 116	643
Webster, <i>Re</i> , Derby Union v. Sharratt (1884), 27 Ch. D. 710; 54 L. J. (CH.) 276; 51 L. T. 319	412
Weld, <i>Re</i> (1882), 20 Ch. D. 451; 51 L. J. (CH.) 913; 46 L. T. 290; 30 W. R. 385	656
— <i>Re</i> (1885), 28 Ch. D. 514; 52 L. T. 703; 33 W. R. 845	270
Welsh v. Duckworth (1902), 18 T. L. R. 633	170, 438
Wentworth v. Tubb (1842), 2 Y. & Coll. C. C. 537; 12 L. J. (CH.) 61; 7 Jur. 738	256
West Derby Union v. Liverpool Select Vestry (1882), 46 J. P. 372, n.	398
— Ham v. Bath (1889), 54 J. P. 69	424
— v. Ovens (1872), L. R. 8 Ex. 37; 42 L. J. (M. C.) 29; 27 L. T. 616; 21 W. R. 143	415
— v. Pearson (1890), 54 J. P. 645; 62 L. T. 638	180, 393, 773
— v. St. Matthew, Bethnal Green, [1896] A. C. 477; 60 J. P. 740; 65 L. J. (M. C.) 201; 75 L. T. 286	426
Weston, <i>Re</i> (1903), 116 L. T. Jo. 34	255
Whalley, <i>Re</i> , [1906] 1 Ch. 565; W. N. 42; 75 L. J. (CH.) 328; 94 L. T. 423; 54 W. R. 349	261
Wheeler, <i>Re</i> (1852), 1 De G. M. & G. 436; 21 L. J. (CH.) 759	646
Whitaker, <i>Re</i> (1889), 42 Ch. D. 119; 58 L. J. (CH.) 487; 61 L. T. 102; 37 W. R. 673	267
Whitbread, <i>Ex parte</i> (1816), 2 Mer. 99	643
White, <i>Re</i> (1870), L. R. 5 Ch. 698	292
Wilkinson v. Wilkinson (1851), 22 L. J. (CH.) 155	255
Williams v. Beaumont (1894), 10 T. L. R. 489, 543	439
— v. Briton Ferry Burial Board, [1905] 2 K. B. 565; 74 L. J. (K. B.) 840; 92 L. T. 697; 69 J. P. 313; 54 W. R. 187; 3 L. G. R. 859	371
— v. Burgess (1840), 12 A. & E. 635; 4 P. & D. 443; 9 Dowl. 544	421
Williams' Trusts (1907), 96 L. T. 563; 71 J. P. 209	413
Wilson, <i>Re</i> (1886), 31 Ch. D. 522; 55 L. J. (CH.) 632; 54 L. T. 263	652
— v. Liverpool Overseers (1851), 17 Q. B. 303; 20 L. J. (M. C.) 232	403
Windeatt v. Sharland (1871), L. R. 2 P. & D. 217, 266; 41 L. J. P. & M. 9; 23 L. T. 877; 25 L. T. 574; 20 W. R. 211	416
Winder v. Kingston-upon-Hull Governors (1888), 52 J. P. 535	414
Windham, <i>Re</i> (1862), 31 L. J. (CH.) 720; 6 L. T. 479; 10 W. R. 499; 8 Jur. (N. S.) 448	245
Winkle, <i>Re</i> , [1894] 2 Ch. 519; 42 W. R. 513; 63 L. J. (CH.) 541; 70 L. T. 710	265, 268, 641, 642
— v. Bailey, [1897] 1 Ch. 123; [1896] W. N. 175 (11); 61 J. P. 135; 75 L. T. 577	285, 413, 641
Wood, <i>Re</i> (1863), 33 L. J. (CH.) 334; 9 L. T. 698; 12 W. R. 293; 10 Jur. 60	643
— v. Headingley Burial Board, [1892] 1 Q. B. 713; 66 L. T. 90; 40 W. R. 390; 56 J. P. 326	371
Wragg, <i>Re</i> (1863), 1 De G. J. & S. 356	646
Wright v. Proud (1806), 13 Ves. 136	212
Wynne, <i>Re</i> (1871), L. R. 7 Ch. 229; 26 L. T. 406; 20 W. R. 348	273

X.

X., <i>Re</i> , [1894] 2 Ch. 415; 63 L. J. (CH.) 613; 42 W. R. 657	261, 281
------------------------------------------------------------------------------	----------

Y.

YONGE v. Toynbee, [1910] 1 K. B. 215; 79 L. J. (K. B.) 208; 102 L. T. 57; 26 T. L. R. 211; [1910] W. N. 5	264
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PART I.

THE LUNACY ACTS, 1890 TO 1911.

INTRODUCTION.

Introduct.

THIS Part of the Work contains the Lunacy Acts, 1890, 1891, 1908 and 1911, and the Lancashire County (Lunatic Asylums and other Powers) Act, 1891 and 1902; the Rules of the Commissioners in Lunacy (now constituted the Board of Control by the operation of the Mental Deficiency Act, 1913); the Circulars of the Commissioners in Lunacy and of the Local Government Board explanatory of the Acts; the Orders of the Local Government Board prescribing Statutory Forms of Financial Statements of Lunatic Asylums; the Rules in Lunacy, prescribed by the Lord Chancellor; and various other rules and orders connected with the Lunacy Acts.

The provisions of the principal Act are divisible into two leading classes, viz.—

(a) Those which are to be administered by the Commissioners of the Board of Control, justices of the peace, county and borough councils, guardians of the poor and their officers, visiting committees and their officers, and the officers of county and borough asylums, managing committees and officers of hospitals, visitors, proprietors, and officers of licensed houses, and persons having the charge or being the medical attendants of single patients.

(b) Those which are to be administered by the Lord Chancellor and Judges of the Supreme Court for the time being entrusted, by the sign manual of His Majesty, with the care and commitment of the custody of the persons and estates of lunatics, and by the Masters in Lunacy, the Chancery Visitors, the committees

Introduct. of the persons and estates, and the medical attendants, of lunatics so found, and by persons exercising, under the authority of the Lord Chancellor or any Judge entrusted as aforesaid, or a Master in Lunacy, in regard to the property of lunatics not so found, powers resembling, and in many cases identical to, those of the committee of the estate of a lunatic so found.

The provisions of the Act of 1891 are divisible in like manner being merely supplementary to the principal Act, the Acts of 1908 and 1911 contain but few clauses, but are of special importance with regard to facilitating the administration of estates.

This Introduction will accordingly be found to contain, first, the provisions of the former class arranged consecutively under appropriate chapters and sub-divisions in the order which appears to be the best suited for the acquisition of a knowledge of the law by persons previously unacquainted therewith, followed by the provisions of the second class, arranged on a similar plan, under the general title of Lunacy Regulation. All references to sections refer to sections of the principal Act, unless expressly stated to refer to the Acts of 1891, 1908 or 1911.

CHAPTER I.

Introduct.

THE BOARD OF CONTROL.

CHAP. I.

- | | |
|--------------------------------------|--------------------------------|
| 1. <i>Constitution and Officers.</i> | 3. <i>Reports.</i> |
| 2. <i>Meetings and Procedure.</i> | 4. <i>Power to make rules.</i> |

1. *Constitution and Officers.*] By section 3 of the Lunacy Act, 1845, eleven Commissioners in Lunacy were appointed, three being physicians and three barristers. Section 150 of the Lunacy Act, 1890, enacted that there should continue to be Commissioners in Lunacy, although, under section 337, their office might be amalgamated with that of the Masters in Lunacy and that of the Chancery Visitors, or either of them, and section 3 of the Lunacy Act, 1911, provided for an increase of two paid Commissioners.

Number of
Commis-
sioners.

The constitution of the Commissioners in Lunacy was materially altered by the operation of section 22 of the Mental Deficiency Act, 1913, which statute is dealt with in Part III. of this work.

The Board as now constituted is composed of not more than fifteen Commissioners, and of these twelve are to receive remuneration. Four of the number must be practising barristers or solicitors of five years' standing, and four at least must be medical practitioners of five years' standing, whilst at least two of the Board must be women, one of whom must be a paid Commissioner.

The con-
stitution
of the Board.

The Legal Commissioners, upon the recommendation of the Lord Chancellor will be appointed by the King, who also appoints the other Commissioners upon the recommendation of the Secretary of State.

With regard to the tenure of office, the existing paid Commissioners at the time of the coming into force of the Mental Deficiency Act, became *ex officio* Commissioners to the Board of Control, and their status was unaffected except in name; the unpaid Commissioners, on the other hand, went out of office. Under the new Act the Chairman and the paid

Introduct. Commissioners hold office during His Majesty's pleasure, but the unpaid Commissioners are appointed for a given term by the Secretary of State.

CHAP. I.

The Board is presided over by a paid Chairman appointed by the Secretary of State.

Any interest in a licensed house is a disqualification for office.

Meetings of the Board.

2. Meetings and Procedure.] Meetings for the purpose of granting licenses within their immediate jurisdiction, which must be attended by at least five Commissioners, are provided for (section 159). Meetings may be called at other times on the written request of any Commissioner given to the secretary, the secretary giving twenty-four hours' notice to the others. At such meetings three Commissioners are a quorum, except for making rules and orders to regulate procedure, when five must be present, and seven days' notice of the meeting must be given, specifying its object (sections 160, 161).

Half-yearly reports.

Annual reports.

3. Reports.] Every six months the Commissioners must report to the Lord Chancellor the number of visits they have made and the number of patients they have seen. And yearly in June they must report to him on the condition of the institutions for lunatics and other places visited by them, and as to the care of the patients therein, with such other particulars as they think proper. Copies of the reports must be laid before Parliament (section 162). These Annual Reports are hereinafter frequently referred to in the notes to the statutes.

Rules.

4. Power to make rules.] The Commissioners are empowered, with the approval of the Lord Chancellor to prescribe by rules the books to be kept in institutions for lunatics and houses for single patients, and the entries to be made therein, and the returns, reports, extracts, copies, statements, notices, plans, documents, and information to be sent to the Commissioners or any authority or person, and the persons by whom, the times within which, and the manner in which such entries, returns, reports, extracts, copies, statements, notices, plans, documents, and information are to be made and sent; and also by rules to prescribe forms for the purposes aforesaid in addition to or in substitution for any forms now in use (section 338 (1)). Such rules must be laid before Parliament and must be judicially noticed and have effect as if enacted by the Act (section 338 (6)).

Rules so made do not, however, come into operation until the expiration of one month after they have been made and issued (section 338 (7)). Rules have been accordingly made and issued by the Commissioners, with the approval of the Lord Chancellor, at various times, and those now in force will be found at the end of the Acts.

Introduct.
CHAP. I.

An important extension with regard to the powers of a Commissioner, acting alone, was conferred by an Order in Council, in March, 1914, which will be found cited in full under the now repealed section 150 of the Lunacy Act, 1890, and after the Mental Deficiency Act, 1913, in the second appendix. One Commissioner is now authorised to exercise any power, which in the Acts required the sanction of two Commissioners, saving that the terms of any sections of the Acts do not require in the exercise of any duty that one of the Commissioners should be a medical Commissioner and the other a legal Commissioner.

Extension of
powers of
one Commis-
sioner acting
alone.

CHAPTER II.

CHAP. II.

INSTITUTIONS FOR LUNATICS.

Definition.] “Institution for lunatics” means an asylum, hospital, or licensed house (section 341). It will be convenient to describe each of these in the reverse order to that stated in this definition, and to state the sub-headings relating to each separately.

A. LICENSED HOUSES.

- | | |
|----------------------------------------------------|-----------------------------------------------------------------------------|
| 1. <i>Licensing Authorities.</i> | 6. <i>Infringement, Revocation, and Prohibition of Renewal of Licenses.</i> |
| 2. <i>Applications for Licenses and Renewals.</i> | 7. <i>Management of Licensed Houses.</i> |
| 3. <i>Restrictions on Granting of Licenses.</i> | 8. <i>Voluntary Boarders.</i> |
| 4. <i>Forms, Stamps, and Charges for Licenses.</i> | 9. <i>Contracts for Reception of Pauper Lunatics.</i> |
| 5. <i>Duration and Transfer of Licenses.</i> | 10. <i>Visitors of Licensed Houses.</i> |

1. *Licensing Authorities.*] The Commissioners grant all licenses for houses situate within their immediate jurisdiction (section 208 (1)), that is to say, within the cities of London and Metropolitan licensed houses.

Introduct. Westminster, the counties of London and Middlesex, and the following parishes or places, viz. :—Barnes, Kew Green, Mortlake, Merton, Mitcham, and Wimbledon, in the county of Surrey ; Southend, in the county of Kent ; East Ham, Leyton, Leytonstone, Low Leyton, Plaistow, West Ham, and Walthamstow, in the county of Essex ; and elsewhere within seven miles from any part of the cities of London or Westminster, or of the borough of Southwark (Third Schedule). Such licenses are granted by the Commissioners at their office, 66, Victoria Street, Westminster. In all other places licenses are granted by the justices for the county or borough at quarter or special sessions respectively (section 208 (2)). The special sessions for this purpose in a borough are held at the same time as the quarter sessions for the borough (section 209). No person may act in granting a license if he is, or within one year next preceding has been, interested in a licensed house (section 208 (3)).

Provincial
licensed
houses.

Notice of
application.

Plans, &c.,
for new
licenses.

2. *Applications for Licenses and Renewals.*] Every applicant must give fourteen clear days' notice of the application to the Commissioners or to the clerk of the peace for the county or borough, according as the house is situate within the immediate jurisdiction of the Commissioners or elsewhere. If the house has not been previously licensed he must also send plans and descriptions of the house and premises, and a statement of the number of patients to be received. The clerk of the peace receiving such notice and documents must lay them before the justices when they consider the application. In the case of a house not previously licensed not within the immediate jurisdiction of the Commissioners, copies of the notice and documents must be sent to the Commissioners at least thirty days before the sessions (rule 36, of the Commissioners' Rules, 26th June, 1895). Before a license is granted by justices for a house not previously licensed the house must be inspected by one or more of the Commissioners, and a report thereon sent by them to the clerk of the peace and considered by the justices (section 210). Seven clear days' notice of the intended substitution of the new house, unless it is occasioned by fire or tempest, must be sent to every person on whose petition the reception order of any private patient was made, or to the person who made the last payment on account of any such patient, and to the authority liable for the maintenance of each pauper patient (section 219).

Upon an application for a renewal, a statement containing the names and numbers of the patients of each sex then detained in such house, distinguishing between private and pauper patients, signed by the applicant, must be furnished to the Commissioners, and if the application is to any justices, also to the clerk of the peace for the county or borough. Copies of all entries made in the books by the visiting Commissioners since the last renewal must also be laid before the justices (rule 37 of the Commissioners' Rules, 26th June, 1895).

Introduct.
CHAP. II.
Application
for renewal.

Any person wilfully supplying to the Commissioners or justices any untrue or incorrect information, plan, description, statement, or notice for the purpose of obtaining a license, or the renewal of a license, is guilty of a misdemeanor (section 214).

Untrue in-
formation.

3. Restrictions on Granting of Licenses.] No new license can be granted to any person for a house for the reception of lunatics except in substitution for a house relinquished and within the jurisdiction of the same licensing authority.

New licenses
in substitu-
tion only.

The number of patients allowed by the license for such substituted house cannot be increased, nor can any increase be allowed for a house already licensed. Joint proprietors are allowed to separate, and each to have a licensed house, the aggregate number of patients not exceeding the number of patients allowed in the house carried on jointly (section 207). No license may be granted unless the licensee or one of the licensees undertakes to reside on the premises (section 211).

Under the Mental Deficiency Act, dealt with in Part III. of this book, new licenses may be granted for the reception of defectives.

Licenses for existing establishments may be renewed (section 207 (1)). But no alteration or addition to any licensed house or the appurtenances may be made without the consent in writing of the Commissioners, and also of two of the visitors in the case of a house within the jurisdiction of visitors (section 213).

Renewals
and altera-
tions.

4. Forms, Stamps, and Charges for Licenses.] Forms for licenses and renewed licenses are given in the Second Schedule to the Act (Forms 18—20). A copy of every license granted by justices must be sent within seven days to the Commissioners by the clerk of the peace, under a penalty for default not exceeding forty shillings (section 215). Every license and renewed

Forms.
Forms.
Stamps.

Introduct.	license must be stamped with a ten-shilling stamp, and if
CHAP. II.	granted by the Commissioners must be under their common seal, and if by justices must be signed by three or more of them.
Additional charges.	In addition to the stamp, a charge is made of ten shillings for every private patient and half-a-crown for every pauper, with so much more if required as will make up fifteen pounds. This charge may be reduced to not less than five pounds if the license is granted for less than thirteen months. For a license for a new house upon the transfer of patients from a licensed house not less than one pound must be paid. No license shall be delivered
Application of fees.	until the charges have been paid (section 217). The fees for licenses granted by the Commissioners are paid over by their secretary into the Exchequer to the credit of the Consolidated Fund (31 & 32 Vict. c. 9, s. 1). The fees for licenses granted by justices are paid over by the clerk of the peace to the county or borough fund (section 224).
Term of license.	5. <i>Duration and Transfer of Licenses.</i>] Licenses or renewed licenses may be granted for thirteen months or any less period as the Commissioners or justices granting them think fit (section 216). If one of joint licensees dies before the license expires, it remains in force if the survivor, or one of the survivors, gives, within ten days, a written undertaking to reside on the premises (section 212). On the death or incapacitation by sickness of a licensee, before the expiration of the license, it may be transferred by endorsement by the Commissioners, under their common seal, or by any three justices, under their hands, as the case may be, with all the annexed privileges and obligations, for the unexpired residue of the term. On a transfer by justices, the clerk of the peace must, within three days, send a copy of the endorsement to the Commissioners, under a penalty for default not exceeding forty shillings (section 218).
Transfer of license.	
Penalty for overcrowding. Revocation and prohibition of renewal.	6. <i>Infringement, Revocation, and Prohibition of Renewal of Licenses.</i>] If a licensee receives into his house any patients beyond the number specified in the license, which includes boarders as well as patients (section 229 (3)), or fails to comply with it in respect of the sex or class of the patients, he will be liable to a penalty of fifty pounds for every patient received contrary to the license (section 220). A license granted by the

Commissioners may be revoked by the Lord Chancellor, on their recommendation, and a license granted by justices may be revoked, or the renewal of it prohibited by the Lord Chancellor, either on their recommendation, or on that of the Commissioners (section 221). The detention of two or more lunatics in the house after the lapse of two months from the expiration or revocation of the license is a misdemeanor (section 222), but the powers of the Commissioners and visitors with reference to the house and the patients, and the discharge, removal, and transfer of the patients, continue in force so long as any patients are detained therein (section 223).

Introduct.
CHAP. II.

7. Management of Licensed Houses.] Regulations for the government of licensed houses may be made by the Commissioners, with the approval of the Secretary of State (section 226). A copy of the plan sent on the application for the license must be hung up in a conspicuous part of the house (section 227). There must be a resident medical manager in every house licensed for one hundred patients, or more. In practice all large licensed houses have a resident medical manager even although the number of patients therein does not amount to one hundred. Smaller houses not kept by, or having a resident medical practitioner, must be visited by one at certain intervals (section 228). Within one week after the dismissal for misconduct of any person employed in connection with the care of the patients, the manager must send a notice in writing to the Commissioners of the dismissal and its cause (Rule 25, Commissioners' Rules, 26th June, 1895).

Regulations.
Plan.
Resident medical man.
Dismissal of attendants.

8. Voluntary Boarders.] Any person desirous of voluntarily submitting to treatment, and any relative or friend of a patient, may be received as a boarder, with the previous written consent of one of the Commissioners, or in the case of a house licensed by justices, of two justices (section 229), as amended by an Order in Council, 9th March, 1914, cited under section 115, *post*, p. 301.

Boarders.

Notice of reception must be given to the Commissioners by the manager within twenty-four hours under a penalty of five pounds a day (Act of 1891, section 20), and Rules dated 26th June, 1895, R. 8 (6). Patients and boarders together are not to exceed the number for which the house is licensed. Boarders are to be produced to the visiting Commissioners and

Introduct. visitors (section 229). And the Commissioners may order the manager to remove a boarder or to place him under certificates, under a penalty for disobedience of five pounds a day (Act of 1891, section 20). A boarder may leave on twenty-four hours' notice; and detention after that time will subject the manager to a penalty of ten pounds for every day or part of a day of such detention (section 229). A proper register of voluntary boarders must be kept by the superintendent or resident licensee, and produced to visiting Commissioners and visitors, section 196 and Rules dated 26th June, 1895, Rules 6 and 19, and Rules dated 31st October, 1906, R. 1.

Pauper patients.

9. *Contracts for Reception of Pauper Lunatics.*] (a) The visiting committee of an asylum may contract with the manager of a licensed house for the reception into that house of all or any of the pauper lunatics of the local authority for which the contracting committee is acting, or for the use and occupation of the whole or any part of the house, upon such terms as may be agreed. The contract must not be made for more than five years, but may be renewed for the like period from time to time. The contract must not be carried into effect until approved by the Secretary of State, and may be determined by him at any time. If so determined the contract will not exempt the local authority for which the contracting committee is acting from the requirements of the Act as regards asylum accommodation, although the term for which the contract was entered into has not expired. The contract will determine if the house ceases to be licensed. And during the continuance of the contract the house may be visited by any member for the time being of the committee of the asylum (section 269).

Provincial visitors.

10. *Visitors of Licensed Houses.*] The justices of every county and quarter sessions borough not within the immediate jurisdiction of the Commissioners must annually appoint three or more justices, and also at least one duly registered and qualified medical practitioner, as visitors of licensed houses within the county or borough. The consent of the recorder is necessary to appointments made by borough justices (section 180), and they must be notified by their clerk to the clerk of the peace for

(a) The number of licensed houses which now receive pauper patients has diminished to two.

the borough. Such visitors must be appointed, whether there is a licensed house within the county or borough, or not. Any person who has been interested in a licensed house within one year previously is disqualified to be appointed. The annual appointments must be made by county justices at their Michaelmas quarter sessions, and by borough justices at special sessions in October. Any visitor becoming interested in a licensed house is disqualified to act, and if he continues to act is guilty of a misdemeanor. Appointments on vacancies caused by death, inability, disqualification, resignation, or refusal to act, may be made by county justices at any quarter sessions, and by borough justices, with the consent of the recorder, at special sessions held at the same time as any quarter sessions (section 177). Lists of appointments must be sent to the Commissioners by the clerk of the peace of the county or borough, within three days, and published by him in a local newspaper within a fortnight (section 177).

Introduct.

CHAP. II.

Visitors must at their first meeting make a declaration before a justice. Medical visitors are entitled to such remuneration as the justices approve (section 177). The clerk of the peace, or some person appointed by the justices (the consent of the recorder being necessary to an appointment by borough justices) (section 180), acts as clerk to the visitors (section 178). He must not have been interested in a licensed house within one year previously (section 177). Notice of his appointment must be sent to the Commissioners within three days, and published in a local newspaper within a fortnight, by the clerk of the peace, under a penalty for default not exceeding forty shillings. The clerk to the visitors must make a declaration before one of them, being a justice, at their first meeting. His salary is fixed by the justices (section 178). If he becomes interested in a licensed house, he is disqualified, and on continuing to act will be guilty of a misdemeanor (section 177). He may have an assistant at his own expense, on notice to a visitor, being a justice, before whom the assistant must make a declaration (section 179). The assistant is subject to the same disqualifications as the clerk (section 177). The visitors may make their own arrangements for meetings, and a meeting may be called by the clerk on the direction of any two visitors. Meetings must be held privately, and the names and places kept secret, so that no manager or person connected with a licensed house shall have

Declaration
and medical
salaries.Clerk to
visitors.Meetings
of visitors.

Introdect. notice of an intended visit (section 181). The expenses of the
visitors are payable out of the county or borough fund (section
182).

CHAP. II.
Expenses.

B. HOSPITALS.

- | | | |
|--------------------------------------|-----------------------|---------------------------------------------------------------------|
| 1. <i>Definition.</i> | \| 4. <i>Management.</i> | |
| 2. <i>Registration.</i> | | 5. <i>Contracts for the Reception of</i>
<i>Pauper Lunatics.</i> |
| 3. <i>Alterations and Additions.</i> | | |

1. *Definition.*] “Hospital” means any hospital or part of a hospital or other house or institution (not being an asylum) wherein lunatics are received and supported wholly or partly by voluntary contributions or by any charitable bequest or gift, or by applying the excess of payments of some patients for or towards the support, provision, or benefit of other patients (section 341).

2. *Registration.*] Every hospital for the reception of lunatics must be registered (section 231 (9)). Hospitals registered before the passing of the Act need not be registered over again, but the Commissioners may require the superintendent to furnish plans (Rules 26th June, 1895, R. 41). Plans and descriptions must also be furnished to the Commissioners on every application for registration of a hospital not already registered (Rules, 26th June, 1895, R. 39). On every such application the premises must be inspected by or on behalf of the Commissioners and a report made to them thereon. Registration is primarily a matter for the discretion of the Commissioners, but if they decline to register they must lay a statement of their reasons before the Secretary of State, who shall finally determine the matter. If the Commissioners are satisfied with the inspection and report, or are directed by the Secretary of State to register, a provisional certificate is issued, which is valid for six months unless superseded by a complete certificate, and can be extended, if necessary, by the Commissioners. During the currency of the provisional certificate patients may be received. Within three months from its date the managing committee must frame regulations to be submitted to the Secretary of State, and on his approval of them, a complete certificate is issued specifying the total number of patients receivable (section 231).

Application
for registra-
tion.

Provisional
certificate.

Regulations.

Complete
certificate.

3. *Alterations and Additions.*] Written notice of proposed alterations and additions, accompanied by plans and descriptions, must be sent to the Commissioners before they are made (Rules, 26th June, 1895, R. 40).

Introduct.
CHAP. II.
Alterations.

4. *Management.*] Medical and other officers of the hospital are disqualified from being members of the managing committee, and so also is every person interested in any contract or work done for the committee, but this disqualification does not extend to any member of an incorporated company contracting with or doing work for the committee (section 236).

Managing
committee.

Every hospital must have a duly qualified medical practitioner as resident superintendent (section 230).

Resident
superinten-
dent.

The regulations made by the managing committee must be printed and a copy sent to the Commissioners and another copy hung up in the visitors' room, otherwise the superintendent is liable to a penalty not exceeding twenty pounds (section 232). The regulations may be altered by the managing committee subject to the approval of the Secretary of State (Act of 1891, s. 12). The Commissioners may require to be informed how the regulations are carried out, and may give notice of particulars in which they are not in their opinion properly carried out, requiring such things to be done as they think proper. If the requirements of this notice are not complied with within six months, the Commissioners may, with the consent of the Secretary of State, order the hospital to be closed from a specified date, so far as concerns the reception and detention of lunatics, and if lunatics are subsequently received or detained, the superintendent will be guilty of a misdemeanor (section 237).

Regulations.

No building in the occupation of the managing committee not shown on the plans sent to the Commissioners may be used for the reception or the care and treatment of lunatics. If the superintendent knowingly permits such use of any such building he is guilty of a misdemeanor (section 233).

Buildings not
on plans.

Complaints as to the control of patients when outside the hospital may be made to the Commissioners, who have power to make orders in relation thereto, and any superintendent disobeying any such order is guilty of a misdemeanor (Act of 1891, s. 21).

Control of
patients
when out.

The accounts of every hospital not submitted to the Charity Commissioners must be audited annually by an auditor approved

Accounts.

Introduct. by the Commissioners, and must be printed. The Commissioners in Lunacy may prescribe the form in which the accounts are to be kept, and the date to which they are to be made up (section 234). An abstract of the accounts must be forwarded by the superintendent to the Commissioners in Lunacy within a month after they have been submitted to the Charity Commissioners or have been audited (Rules dated 26th June, 1895, R. 42).

CHAP. II.

Dismissal of attendants. Within one week after the dismissal for misconduct of any person employed in the hospital in connection with the care of the patients, the manager must send notice in writing to the Commissioners of the dismissal and its cause (Rules dated 26th June, 1895, R. 25).

Pensions. The managing committee may grant a superannuation allowance not exceeding two-thirds of his salary together with the value of his lodgings, rations, and allowances, to any officer or servant of fifty years of age and fifteen years of service, who is incapacitated by confirmed illness, age, or infirmity (section 235).

Contracts with visiting committees. **5. *Contracts for Reception of Pauper Lunatics.***] In future no new contracts may be entered into between a visiting committee of an asylum and the subscribers to a hospital for the reception of pauper patients into the hospital except where a contract of that kind was subsisting on the 26th August, 1889, in which case such contract continues in force and on its expiration may be renewed from time to time for not more than five years. Such a contract must not, however, be carried into effect until approved by the Secretary of State and may be determined by him at any time. During the continuance of the contract the hospital may be visited by any members of the visiting committee of the asylum (section 269).

Contracts with town councils. Contracts made between the council of a borough and the subscribers to a hospital for the reception of pauper lunatics into the hospital, if subsisting on the 26th August, 1889, unless determined by the parties must be deemed to have been in force since that date and may be renewed as if made with a visiting committee on behalf of the borough (Act of 1891, s. 17).

C. COUNTY AND BOROUGH ASYLUMS.

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| <ol style="list-style-type: none"> 1. <i>Obligation to provide Asylums.</i> 2. <i>Powers for providing Asylums.</i> 3. <i>Agreement to Unite.</i> 4. <i>Visiting Committee.</i> 5. <i>Dissolution of Agreement to Unite.</i> 6. <i>Situation of Asylum.</i> 7. <i>Purchase of Land and other Incidental Powers.</i> 8. <i>Repairs, Alterations, and Improvements.</i> | <ol style="list-style-type: none"> 9. <i>Payment of Expenses and Borrowing Powers.</i> 10. <i>Rating of Asylums.</i> 11. <i>Rules and Regulations.</i> 12. <i>Officers and Pensions.</i> 13. <i>Admission of Pauper Lunatics from other Counties or Boroughs.</i> 14. <i>Admission of Private Patients.</i> 15. <i>Weekly Charges for Pauper Lunatics.</i> |
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1. *Obligation to provide Asylums.*] Every local authority is bound to provide asylum accommodation for its pauper lunatics (section 238). And, on the report of the Commissioners that any local authority has failed to satisfy the requirements of the Act, the Secretary of State may enforce this obligation (section 247).

Every county council, and the council of every county borough and of certain other boroughs named in the Fourth Schedule, is a local authority under the Act (section 240). But special provision is made for the county council of Lancashire and the councils of the fifteen county boroughs in Lancashire by the Lancashire County (Lunatic Asylums and other Powers) Acts, 1891 and 1902. Some of the boroughs originally named in the Fourth Schedule have ceased under section 246 to be local authorities under the principal Act.

Where the existing accommodation is insufficient the local authority may supply the deficiency by exercising the powers conferred by the Act or by rebuilding or enlarging any existing asylum. A local authority may purchase any licensed or other houses and land for the purpose of providing asylum accommodation, and, even if not a county council, has for the like purpose the same powers as a county council (section 238). The powers conferred by the Act must be exercised through a visiting committee, subject to the directions of the local authority as to which method of providing the required accommodation is to be adopted (section 239).

2. *Powers for providing Asylums.*] Accommodation may be provided for pauper and private patients, together or in separate

Local authority.

Insufficient accommodation.

Classes of accommodation.

Introduct.	asylums, and separate asylums may be provided for idiots or any particular class of the mentally afflicted (section 241). The necessary accommodation may be provided by a local authority alone, or under agreement to unite with any other local authority or authorities either for providing and maintaining a district asylum, or for the joint use and, if necessary, enlargement of any existing asylum as a district asylum (section 242). A "district asylum" means an asylum provided by two or more counties in union, or by any county or counties in union with any borough or boroughs (section 341). The approval of the Secretary of State is necessary for carrying out an agreement to unite; and where an agreement to unite has been entered into, an agreement for further union may be made, which is to be deemed for all purposes an agreement to unite (section 242).
CHAP. II.	
Agreement to unite.	
Contracting county borough.	A county borough may contract with the visiting committee of an asylum for the reception of its pauper lunatics, and while such contract is in force is not required to provide an asylum; but such contract cannot be carried out without the approval of the Secretary of State (section 243). And where a county borough has contributed to the cost of a county asylum, the existing arrangements are to continue until a new arrangement is made; and on such new arrangement there may be an adjustment of property, debts, and liabilities. A new arrangement may be enforced by reference to arbitration under the Local Government Act, 1888 (section 244).
Contributory county borough.	
Quarter sessions boroughs.	Any borough named in the Fourth Schedule, contributing to a county asylum, is, so long as it continues to contribute, deemed to satisfy the requirements of the Act; but it may separate on notice, and will then be obliged to provide accommodation, the liability to contribute continuing notwithstanding until all its pauper lunatics have been removed from the county asylum (section 245). Where any borough named in the Fourth Schedule has contracted for the reception of its pauper lunatics into the county asylum, it will cease, on the determination of the contract, to be a local authority under the Act, and will be for all purposes of the Act annexed to and treated as part of the county in which it is situate; but if it has not contributed to the expenses of providing the county asylum, the borough must pay towards those expenses a sum to be agreed between the county and borough councils, or fixed by arbitration in default of agreement (section 246 and Act of 1891, s. 13).

3. *Agreement to Unite.*] An agreement to unite may be in Form 21 of the Second Schedule, wherever applicable and with such modifications as circumstances require, and if that form is used it will be sufficient (section 339). It must state the number of visitors to be chosen, and the proportion in which the expenses are to be borne by each contracting party, and the basis on which such proportion is fixed (section 248), which may be either according to the extent of accommodation required by each, or in proportion to their respective populations (section 249). If the agreement provides for the joint user of an existing asylum, it must also state the sum to be paid by each party towards expenses already incurred (section 248), which sum will have to be paid to the treasurer of the local authority as part of the county or borough fund and applied as capital (section 252). Provisions subjecting the visiting committee to any control not provided for by the Act, except the control of the Secretary of State, are void (section 248 (2)).

Introduct.
CHAP. II.
Form and
contents.

An agreement to unite may be altered or varied with the written consent of a majority of the visitors and with the sanction of the Secretary of State, but not so as to contain any provision which might not have been originally inserted (section 250).

Alterations.

Every agreement to unite must be reported as soon as possible to the local authorities interested. The original, and the original of every agreement varying it, must be delivered to the clerk of the local authority within whose area the asylum is situate and kept by him among their records; and may be inspected without payment by any Commissioner or member of the council of the contracting parties; and such clerk must make copies and send one to the Commissioners and one to each of the contracting parties, within 20 days after delivery of the original (section 251).

Report and
record.

When the agreement has been reported, the agreed number of visitors must be elected by each of the contracting parties, and are the visiting committee of the asylum until the election of a visiting committee in their place (section 253).

Election of
visitors.

4. *Visiting Committee.*] A visiting committee must be appointed annually by the local authority for every asylum. There must be at least seven members of the committee, and in the case of a district asylum, the number must be that fixed by

Appointment
and numbers.

Introduct.	the agreement to unite. Where there is more than one asylum,
CHAP. II.	one committee may be appointed for the management and control of all the asylums. Such committee must, however, appoint a sub-committee for each separate asylum, and may delegate to them such powers and duties as they think fit. A contributory county borough may appoint so many members of the committee as may be agreed upon or otherwise determined under the Act; and a contributory non-county borough, not assessed to county contributions in respect of the asylum, may appoint two members of the committee. A borough sending its pauper lunatics to a county asylum under a reception contract must appoint a committee to visit its own lunatics (section 169). The annual appointments must be made at the
Annual appointment.	November quarterly meeting of the local authority, or on such other date as may be appointed by the standing orders (section 170). Members of the committee must not be interested in any contract with or work done for the committee, and must not
Disqualifications.	derive any profit or emolument from the asylum funds. But a member is not disqualified by holding shares in a company contracting with or doing work for the committee, he is only disentitled to vote in respect of the contract or work in question (section 174). Vacancies on the committee by death, resignation, incapacity, or disqualification must be filled as soon as possible, and the continuing members may act notwithstanding (section 171). The committee hold office until the election of their successors (section 172). They must appoint a
Vacancies.	clerk, whom they may discharge, and in the event of a vacancy the committee may make a new appointment. The clerk's salary is fixed by the committee, and unless sooner discharged he holds office so long as the committee appointing him hold office. The committee may sue and be sued in the name of
Term of office.	their clerk for the time being (section 176). The meetings and
Clerk.	procedure of a committee appointed wholly or partly by a county council are subject to the provisions of the Local Government Act, 1888, as to committees of county councils. Those of other visiting committees are subject to the specific regulations of the Act (section 175).
Meetings and procedure.	
Resolution to dissolve.	5. Dissolution of Agreement to Unite.] An agreement to unite may, with the consent of the Secretary of State, be dissolved by resolution of the majority of the whole number of the

visiting committee; but, before dissolution, every local authority interested must elect a committee to provide asylum accommodation in accordance with the Act. On the dissolution compensation agreed by the dissolving committee may be raised and paid to any local authority having an asylum, and in receipt of a fixed annual remuneration for expenses incurred for the benefit of any local authority not having an asylum, by the authority paying such remuneration; and the dissolving committee may divide the property subject to the agreement between the authorities interested, either in the proportion in which they contributed or were interested, or, with the consent of the Secretary of State, as they think fit, and may award a sum of money instead of a share or part of a share in the property, the money to be raised by any of the authorities interested in such proportions as the committee, with the consent of the Secretary of State, approve. Money raised under this section is to be raised as other moneys under this Part of the Act (section 267).

Introduct.
CHAP. II.
Compensation
for asylum.

Division of
property.

6. *Situation of Asylum.*] The asylum to be provided by any local authority, either solely or jointly, may be situate without the limits of the administrative area of the local authority. And if the asylum or part thereof is so situate the council and justices of the county, county borough, or borough to which the asylum belongs have full power and authority to act in the county or borough in which the asylum is situate, so far as concerns the regulation of the asylum and the powers conferred by the Act, as if the asylum were situate within the proper jurisdiction of such council and justices (section 262).

Jurisdiction
of council and
justices.

7. *Purchase of Land and other Incidental Powers.*] A visiting committee authorised to provide asylum accommodation may agree upon plans and estimates, and may contract for the purchase of lands and buildings with or without fittings and furniture, and for the erection, restoration, enlargement, and furnishing of buildings, and for the supply of clothing, and for all the matters required for carrying into effect the authority conferred upon them. Plans and contracts for the purchase of lands and buildings, and for the erection, restoration, and enlargement of buildings, when agreed upon, cannot be carried into effect without the approval of the Secretary of State

Plans and
estimates.

Introduct. (section 254 and Act of 1891, s. 16). To procure such approval they must be submitted to the Commissioners and to the Secretary of State, with an estimate of probable cost; the Commissioners may then make inquiries and report thereon to the Secretary of State, who may give his approval, with or without modification, or refuse it altogether (section 272).

Reports to
local
authority.

All plans, estimates, and contracts agreed upon by the visiting committee must be reported to the local authority or authorities by whom they were elected, for their approval, together with the amount to be expended by each local authority, except where such amount does not exceed an amount previously fixed by such authority. If there are several local authorities concerned and they differ as to approval, the disapproving authority must send a written statement of their objections to the Secretary of State, within four months after report, and he may finally decide the matter and direct what is to be done (section 254).

Contractors'
security and
contracts
book.

Contractors must give security, and all contracts and orders relating thereto must be entered in a book kept by the clerk of the committee, and when the contract is complete the book must be deposited and kept with the records of the local authority, or if more than one is interested, then with the records of the one contributing most to the expenses of the contract. The book must be open at all reasonable times to the inspection of persons contributing to the rates of any authority interested, and a copy must be kept at the asylum to which it relates (section 256).

Buildings for
private
patients.

A district asylum must not be enlarged or improved without the consent of all the parties to the agreement under which it is provided (section 257). Alterations or additions to an asylum, either as detached buildings or otherwise, may be made for the accommodation of private patients with the consent of each local authority by whom the asylum is provided, and with the written approval of the Secretary of State (section 255); and private patients may be received upon such terms as to payment and accommodation as the visiting committee think fit. Profit resulting from the reception of private patients may be applied to a building and repair fund, and any surplus is to be carried to the credit of the county or borough fund (section 271).

Burial
grounds.

The visiting committee, with the consent of the local authority or authorities by whom they are appointed, and of the Secretary of State, and in some cases with the previous

approval of the Local Government Board, may provide for the burial of lunatics dying in the asylum, and of the officers and servants of the asylum, by appropriating or acquiring not more than two acres of land, for enlarging an existing burial ground or providing a new one, or by agreement with a burial board or cemetery company (section 258 and notes thereon, *post*, p. 369). The consent of the Secretary of State is procurable, as already stated, in regard to plans and contracts agreed upon by the committee (section 272). The committee may have the ground consecrated, and appoint a chaplain for a new ground; and the incumbent of the parish is not entitled to fees for the burial of any person by direction of the committee in the burial ground provided by them (section 258). Where the committee undertakes the burial of any pauper lunatic, and the public burial ground of the parish where the death took place is closed or inconveniently crowded, the burial may take place in the public burial ground of some other parish with the consent of the minister and churchwardens of that parish, and in such case the committee may pay the fees due by law (section 259).

Introduct.
CHAP. II.

Burials in
public
grounds.

The Lands Clauses Acts (except the provisions relating to compulsory purchase, sale of superfluous lands, recovery of forfeitures, penalties, and costs, and access to the special Act) are incorporated with this Act, for the purpose of the purchase of lands by a visiting committee, who are the "promoters of the undertaking," the "special Act" meaning this Act (section 260).

Purchase of
lands.

Instead of purchasing, the visiting committee may take a lease of any land which they are authorised to purchase, for any term not less than sixty years; and, with the sanction of the local authority or authorities for whom they act, may take land or buildings from year to year or for any term of years, for the employment of the patients, or for the temporary accommodation of any pauper lunatics for whom the accommodation in the asylum is inadequate. Land or buildings so taken are deemed part of the asylum, and are subject to all existing provisions as to the asylum (section 261).

Leases of
lands.

Lands acquired for the purposes of the Act may be conveyed to the local authority being a county council, or if the council of a borough to the municipal corporation, or to the several local authorities interested as joint tenants (section 264).

Conveyance
of lands.

Introduct. Lands found unsuitable or not required for asylum purposes may, with the consent of the Secretary of State, be retained and appropriated by the local authority for any purposes for which such authority is empowered to acquire land (section 265). Where lands contracted for are found unsuitable or not required the visiting committee may, with the consent of the Secretary of State and on payment of such sum as he approves, procure a release from the contract and release the other party. The consideration and all expenses may be raised as if they were purchase money (section 268). The consent of the Secretary of State is procurable, as already stated, in regard to plans and contracts agreed upon by the committee (section 272).

CHAP. II.
Unsuitable
lands.

Small repairs. **8. *Repairs, Alterations, and Improvements.***] All necessary and ordinary repairs may be ordered by the visiting committee, of their own authority, and so also may all necessary and proper additions, alterations, and improvements not exceeding 400*l.* in any one year ; but expenditure, except for repairs, must be reported to the local authority (section 266 (1)).

District
asylum
repairs.

In the case of a district asylum, the committee must apportion the expenses between the local authorities in the proportion fixed by the agreement to unite, or if the agreement is silent, then in the proportion which each local authority has contributed to the erection of the asylum. If the agreement fixes the proportion for repairs, then the expense of alterations, additions, and improvements must be borne in the same proportion (section 266 (4)).

Orders for
payments.

All orders for more than 100*l.* must be signed by at least three visitors at a meeting on notice. All orders must be made on the treasurer or treasurers of the local authority or authorities, and paid out of the county or borough fund (section 266 (2)).

Building and
repairs fund.

A building and repairs fund may be created to which may be carried the profits from the extra weekly charges for the maintenance of out-county pauper patients (section 283 (4)), and such sums as the visiting committee think fit out of the profits arising from private patients (section 271 (2)). Separate accounts must be kept for this fund, and a detailed statement of the expenditure must be furnished annually by the visiting committee to the local authority (section 283 (4)).

9. *Payment of Expenses and Borrowing Powers.*] All ex- Introduct.
 penses are to be paid by the treasurer of the local authority CHAP. II.
 to the treasurer of the asylum out of the county or borough
 fund (section 273). With the consent of the Local Government
 Board, and subject to the Local Government Act, 1888, or the
 Municipal Corporations Act, 1882, as the case may be, the local
 authority may borrow money required for the purposes of the
 Act, or for repaying moneys borrowed for the purposes of
 asylum accommodation, on the security of the county or
 borough fund or any revenue of the local authority; and the
 Public Works Loans Commissioners may lend money to the
 local authority for such purposes on the like security (section
 274).

10. *Rating of Asylums.*] Lands and buildings used for asylum Uniform
 purposes must be assessed to all county, parochial, district, rating.
 and other rates on the same basis and to the same extent as
 other lands and buildings in the same parish, township, or
 district (section 263).

11. *Rules and Regulations.*] Within a year after the com- General rules.
 pletion of the asylum the visiting committee must make general
 rules for its government, which, when approved by the Secretary
 of State, must be printed and observed, and may be altered
 with the like approval. The committee must also make Regulations.
 regulations (not inconsistent with the general rules) setting
 forth the number and description of officers and servants,
 and their respective duties and salaries, and providing for the
 reservation of beds for special cases, for the exclusion of patients
 affected with contagious or infectious disease or coming from
 an area of contagion or infection, and for the absence of patients
 by permission of the manager for any period not exceeding four
 days. The committee must also determine the diet of the Diet.
 patients (section 275).

12. *Officers and Pensions.*] The committee must appoint a Chaplain.
 chaplain in priest's orders, licensed by the bishop, but removable
 by the committee (section 276), although his license is revocable
 by the bishop (section 277). A vacancy in the office of chaplain
 must be filled by the committee, subject to the like restrictions
 (section 276). The chaplain or his substitute approved by the
 committee must perform Divine service according to the rites

Introduct. of the Church of England on every Sunday, Christmas Day, and Good Friday, and at other times as the committee direct, in the chapel or elsewhere in the asylum.

CHAP. II.

Dissenting ministers.

The committee may also appoint a minister of any religious persuasion to attend patients of the persuasion to which he belongs (section 276) ; and if a patient is not of the Established Church a minister of his own persuasion may visit him, at the request of the patient or his friends, subject to the consent and directions of the medical officer (section 277).

Resident medical officer.

The committee must also appoint a resident medical officer, who must not be the clerk or treasurer (section 276), and must be a registered medical practitioner. The resident medical officer is removable by the committee, and they must fill any vacancy in the office subject to the like restrictions (section 276).

Superintendent.

The committee must also appoint a superintendent, or if there are several divisions of the asylum, a superintendent of each division, who must be the resident medical officer or one of the resident medical officers of the asylum or of the division of which he is appointed superintendent, unless the Secretary of State authorises the appointment of some other person. Every superintendent is removable by the committee, and vacancies in the office must be filled under the like restrictions (section 276).

Visiting physician.

The committee may also appoint a visiting physician or surgeon to the asylum (section 276).

Clerk.

The committee must also appoint a clerk, who is removable by them, and on a vacancy in the office they must make a fresh appointment (section 276). The clerk must keep all the books and documents of the visiting committee, and an account of the receipts and expenditure on account of the asylum (section 278). His accounts must be examined in June by the visiting committee, and reported to the local authority (section 173), and are subject to audit by the district auditor of the Local Government Board (Act of 1891, s. 18). He must send a yearly abstract of the account for the previous year to the Local Government Board and to the Commissioners, in the form prescribed by the Board, and a copy of the abstract is to be laid before Parliament (section 278).

Treasurer.

The committee must also appoint a treasurer, who may be removed by them, but on a vacancy his place must be refilled (section 276). The treasurer must keep accounts of his receipts

and expenditure (section 278). His accounts must be examined in June by the visiting committee and reported to the local authority (section 173) ; and are subject to audit by the district auditor of the Local Government Board (Act of 1891, s. 18). Introduc-
CHAP. II.

The committee may also appoint such other officers and servants as they may think fit, and may remove them and refill their places at discretion (section 276). Every officer receiving or spending money or goods on account of the asylum must keep accounts (section 278), which are subject to audit by the district auditor of the Local Government Board (Act of 1891, s. 18). Other officers
and servants.

Within one week after the dismissal for misconduct of any person employed in the asylum in connection with the care of the patients, the clerk of the asylum must send notice in writing to the Commissioners of the dismissal, and its cause (Rules of the Commissioners in Lunacy, 26th June, 1895, R. 25).

The salaries, wages, and remuneration of all officers and servants are fixed by the committee (section 276). Salaries.

Pensions of asylum officers and servants are now regulated by the Asylums Officers' Superannuation Act, 1909, the full text of which is given in the first appendix. A Bill to amend and enlarge upon the provisions of this Act is at present before Parliament, but many controversial points will apparently have to be cleared up before there is any alteration in the existing law. Superannua-
tion.

For the purposes of the present Act, the established officers and servants in asylums are divided into two classes ; the first class consisting of those who have the care or charge of the patients, and the second class includes all other officers and servants. The scale of superannuation allowances varies accordingly. Asylums
Officers'
Superannua-
tion Act,
sections 1
and 2.

The Act is framed upon a contributory basis, and the scale of contributions by the officers and servants is set forth. Asylums
Officers'
Superannua-
tion Act,
sections 8
and 9.

13. *Admission of Pauper Lunatics from other Counties or Boroughs.*] A visiting committee may contract with any other visiting committee for the reception into the asylum of the receiving committee of all or any of the pauper lunatics of the local authority for which the former committee is acting, upon such terms as may be agreed. Such contract must not be made for more than five years, but may be renewed from time Out-county
patients.

Introduct. to time for the like period. Where such a contract has been
CHAP. II. made on behalf of a borough for the reception of its pauper lunatics, and the contract is determinable by the parties thereto, or either of them, the contract must not be determined without the consent of the Secretary of State. No such contract may be carried into effect until approved by the Secretary of State, and may be determined by him at any time. The contract will not exempt the local authority whose pauper lunatics are received thereunder from the requirements of the Act as regards asylum accommodation if it is determined by the Secretary of State, although the time for which it was entered into has not expired. This last provision applies also to reception contracts with the subscribers to a hospital or with the manager of a licensed house, above referred to (section 269).

Private patients.

14. Admission of Private Patients.] Private patients may be received into any asylum upon such terms as to payment and accommodation as the visiting committee think fit, and all enactments as to the conditions on which such lunatics may be received into hospitals or licensed houses are applicable to private patients received into an asylum. In every asylum where private patients are so received an account of the amount by which the sums charged for them exceed the weekly charges for pauper lunatics sent from or settled in any place, parish, or borough which has contributed to provide the asylum, must be made up by the clerk of the asylum to the last day of each year. And the surplus, if any, after carrying to the building and repair funds such sums, and providing for such outgoings and expenses as the visiting committee consider proper, must be paid to the treasurer of the local authority to which the asylum belongs, or in the case of an asylum belonging to several local authorities to their respective treasurers in the proportions in which such local authorities, or the justices of the counties and boroughs whose powers have been transferred to them, have contributed to the asylum, and must be applied as part of the county or borough fund (section 271).

Application of profits.

Maintenance of pauper patients.

15. Weekly Charges for Pauper Lunatics.] Every visiting committee must fix a weekly sum not exceeding fourteen shillings for the expenses of maintenance (*i.e.*, the reasonable charges for lodging, maintenance, medicine, clothing, and care) and other expenses of each pauper lunatic in the asylum, and of

such amount that the total of such weekly sums shall be sufficient to defray such expenses, and also the salaries of the officers and attendants of the asylum, and such weekly sum may from time to time be altered by the visiting committee (section 283 (1)). If fourteen shillings a week is found insufficient, the local authority to whom the asylum belongs may, by order, direct such addition to be made to the weekly sum as they may think necessary, and every such order of the local authority must be signed by their clerk, and forthwith published in a local newspaper (section 283 (2)).

Introduct.
CHAP. II.

A committee may fix a greater weekly sum, not exceeding fourteen shillings, to be charged in respect of pauper lunatics other than those sent from or settled in a parish or place within the county or borough to which the asylum belongs (section 283 (3)). Any excess created by the payment of such greater weekly sum may, if the visiting committee think fit, be paid over to a building and repair fund, to be applied by the committee to the altering, repairing, or improving the asylum, and the committee must annually submit to the local authority a detailed statement of the manner in which such fund has been expended (section 283 (4)).

Extra charges
for out-
county
patients.

When a reception contract has been made by a visiting committee, the local authority for whom the committee acts must, while the contract subsists, pay out of the county or borough fund so much of the weekly charge agreed upon for each pauper lunatic as in the opinion of the visiting committee represents the sum due for the accommodation, not exceeding one-fourth of the entire weekly charge, in exoneration to that extent of the union or parish to which the maintenance of any such pauper lunatic is chargeable (section 269 (9)).

Payment of
extra charges.

Introduct.

CHAP. III.

CHAPTER III.

RECEPTION ORDERS.

A. PRELIMINARY.

1. *Definition.*2. *Judicial Authority.*3. *Different Kinds of Reception Orders.*Reception
order.

1. *Definition.*] “Reception Order” means an order or authority made or given before or after the commencement of the Act (1st May, 1890), for the reception of a lunatic, whether a pauper or not, into an institution for lunatics, or as a single patient, and includes an “urgency order” (section 341).

Judicial
authority.

2. *Judicial Authority.*] Certain reception orders can only be made by a “judicial authority.” The powers of a judicial authority under the Act are to be exercised by a justice of the peace specially appointed in that behalf, or a judge of county courts, or a stipendiary magistrate or any magistrate appointed to act at any of the Metropolitan police courts (section 9, as amended by the Act of 1891, s. 29, and the schedule). The appointments of justices to exercise the powers conferred by the Act upon the judicial authority are to be made as follows:—

Appoint-
ments of
justices.

The justices of every county and quarter sessions borough must annually appoint out of their own number as many fit and proper persons as they may deem necessary to exercise the powers conferred by the Act upon the judicial authority (section 10 (1), as amended by the Act of 1891, s. 29, and the schedule). The appointment may include all the justices of the county or borough (Act of 1891, s. 24). In making such appointments the justices of every county must have regard to the convenience of the inhabitants of each petty sessional division of the county (section 10 (1)). The county justices are to make such annual appointments at their Michaelmas quarter sessions, and the borough justices at special sessions to be held in October (section 10 (2)). The jurisdiction of the justices appointed continues until a fresh appointment is made (Act of 1891, s. 24). In case of the death, absence, inability, or refusal to act of any justice so appointed, the justices of the county or borough must appoint another justice

in his place. Such appointments may be made by the county justices at any quarter sessions, and by the borough justices at special sessions to be held at the same time as any quarter sessions (section 10 (5)).

Introduct.

CHAP. III.
Appointment
of justices.

If in any year the annual appointments are not made by the justices, the Lord Chancellor may, by writing under his hand, make the same; and if, on representation made to him that the number of justices appointed at the annual appointment for any county or borough is at any time insufficient, the Lord Chancellor is satisfied that such representation is well founded, he may, by writing under his hand, appoint any other justices of such county or borough to act, until the next Michaelmas or quarter sessions, with the justices so appointed (section 10 (3)).

If in the case of a borough or place not having a separate court of quarter sessions, representation is made to the Lord Chancellor that public inconvenience is likely to result unless power is given to the justices of such borough or place to exercise the powers conferred by the Act on the judicial authority, the Lord Chancellor may, from time to time, with or without a fresh representation, appoint, by writing under his hand, one or more of the justices of such borough or place to exercise during such time as the Lord Chancellor thinks fit, the powers aforesaid, together with any other specially appointed justices acting therein (section 10 (4), as amended by the Act of 1891, s. 29, and the schedule).

A justice of the peace specially appointed under section 10 of the principal Act may exercise the powers of the judicial authority under that Act, notwithstanding that he may not have jurisdiction in the place where the lunatic or alleged lunatic is (Act of 1891, s. 24 (1)).

All appointments of justices to exercise the powers conferred by the Act upon the judicial authority must be recorded by the clerk of the peace of the county or borough, or in the case of a borough or place not having a separate quarter sessions, by the clerk to the justices; and it is the duty of every such clerk to publish the names of the justices so appointed in each petty sessional division of the county and otherwise for the information of all persons interested. In the case of quarter sessions boroughs, the clerk to the justices making the appointment must forthwith notify the same to the clerk of the peace of the

Introduc^t. borough (section 10 (6)), in order to enable the clerk of the peace to record and publish the same.

CHAP. III.

Reception
orders

3. Different Kinds of Reception Orders.] Reception orders may be divided into two classes, those authorising the reception of private patients, and those authorising the reception of paupers.

B. PRIVATE PATIENTS.

1. *Definition.*

2. *Urgency Orders.*

3. *Reception Orders on Petition.*

Private
patient.

1. Definition.] A "private patient" is a patient who is not a pauper (section 341), nor a criminal lunatic (section 340 (1)).

Urgency
orders when
allowed.

2. Urgency Orders.] In urgent cases, where it is expedient either for the welfare of the alleged lunatic or for the public safety, a private patient may be received into an institution for lunatics or as a single patient upon an urgency order, accompanied by a statement of particulars and by one medical certificate (section 11).

By whom and
when to be
signed.

An urgency order should be in Form 4 of the Second Schedule (section 339). It should be signed (if possible) by the husband or wife, or by a relative of the alleged lunatic (section 11). "Relative" means a lineal ancestor or lineal descendant, or a lineal descendant of an ancestor not more remote than great grandfather or great grandmother (section 341). If not so signed, it must contain a statement of the reasons why not, and of the connection of the person signing it with the alleged lunatic, and of the circumstances under which he signs it. No minor may sign an urgency order (section 11 (4)). The person signing it must not be the husband, wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner or assistant of the person signing the accompanying medical certificate (section 30). It may be signed either before or after the medical certificate (section 11 (2)); but must not be made upon a certificate founded only on facts communicated to the certifier by others (section 28 (2)). The person signing

the order must have personally seen the alleged lunatic within two days before the date of the order (section 11 (4)). The order may be made as well after as before a petition for a judicial order has been presented (section 11 (5)).

Introduct.
CHAP. III.

The accompanying statement of particulars should be in the Form 2 in the Second Schedule (section 339). It need not be made by the person signing the urgency order, but it must be signed by the person making it, and if he is not the person signing the urgency order, he must add to his signature particulars of his name and Christian name at length, his rank, profession, or occupation (if any), and how he is related to or otherwise connected with the patient (see Form 2).

Statement of
particulars.

The medical certificate accompanying an urgency order should be in the Form 8, incorporating a statement of urgency in Form 9, of the Second Schedule (sections 339, 28). It must be made and signed by a duly registered medical practitioner (section 28); who must not be the person signing the urgency order, nor the manager or any regular medical attendant of the institution in which the lunatic is to be received, or the person who is to have charge of him as a single patient, or any person interested in the payments on account of the patient, or the husband, wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner or assistant of any of the foregoing persons (sections 30, 32). And if the lunatic is to be taken to a hospital, he must not be a member of the managing committee (section 32 (3)) or a Commissioner (section 33). And if the lunatic is to be taken to a licensed house, he must not be a Commissioner or visitor (section 33). The certificate must state that the certifier has personally examined the alleged lunatic not more than two clear days before the reception of the lunatic (section 29 (3)); and the time and place of such examination; and the facts upon which the certifier has formed his opinion that the alleged lunatic is a lunatic, distinguishing facts observed by himself from facts communicated by others, and stating as regards these last-mentioned facts, the names, addresses, and descriptions of his informants (section 28 (2)). The certificate must also contain a statement that it is expedient for the welfare of the alleged lunatic or for the public safety that he should be forthwith placed under care and treatment, with the reasons for such

Medical
certificate.
By whom to
be signed.

Previous
personal
examination.

Grounds of
opinion.

Statement of
urgency.

Introduct. statement (section 28 (3)). This statement should be in the Form 9 in the Second Schedule (section 339).

CHAP. III.
Authority of order. An urgency order, if it appears to be in conformity with the Act, is sufficient authority for the person authorised so to do by the person making the order to take the lunatic, and convey him to the place mentioned in such order, and for his reception and detention therein, and the order may be acted on without further evidence of the signature of the person making such order (section 35 (1)).

Duration of order. An urgency order remains in force for seven days from its date, eight days in all; or if a petition for a judicial order is pending, then until the petition is finally disposed of (section 11 (6)).

Only to be used in urgent cases. An urgency order should only be resorted to in urgent cases. It should not under any circumstances be made use of merely as a matter of temporary convenience.

Order on petition. **3. Reception Orders on Petition.]** Except in urgent cases, no private patient, not being a lunatic so found, may be received into an institution for lunatics or as a single patient without a judicial order obtained on petition (section 4). A judicial order for the reception of a private patient must be made by a "judicial authority," *i.e.*, by a county court judge, stipendiary magistrate or specially appointed justice (section 9). Such an order may be obtained on petition accompanied by a statement of particulars, and two separate medical certificates (section 4 (2)); and also, if a previous petition relating to the same alleged lunatic has been dismissed, a copy of the statement sent to the Commissioners in Lunacy of the reasons for its dismissal (section 7 (4)).

Petition by whom to be presented. The petition should be in Form 1 of the Second Schedule (section 339), as amended by the Act of 1891, s. 23. It should not be presented to any judicial authority being a relative of the petitioner or of the lunatic, or of the husband or wife of the lunatic, because such judicial authority would be incapable of making an order upon it (section 4 (1)). "Relative" means a lineal ancestor or lineal descendant, or a lineal descendant of an ancestor not more remote than great grandfather or great grandmother (section 341). The petition should be presented, if possible, by the husband or wife, or by a relative (as above defined) of the alleged lunatic. If not so presented it must

contain a statement of the reasons why, and of the connection of the petitioner with the alleged lunatic, and the circumstances under which he presents it. No minor may present a petition (section 5 (2)). The petitioner must not be related to or connected with either of the persons signing the accompanying medical certificates either as husband, wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner or assistant (section 30). If for any reason it has not been practicable to obtain a certificate from the usual medical attendant (if any) of the alleged lunatic, the reason must be stated in writing by the petitioner as part of the petition (section 31). The petitioner must have personally seen the alleged lunatic within a fortnight before the presenting of the petition and must undertake by the petition to visit him, personally or by deputy, once at least in every six months (section 5 (3)). If an urgency order has been made before the petition is presented, it must be referred to in the petition (section 11 (5)). If a previous petition has been dismissed, the facts relating thereto must, so far as the petitioner has any knowledge or information with regard to the previous petition and its dismissal, be stated in the petition (section 7 (4)). The petition must be signed by the petitioner (section 5), and dated as of the day of presentation (Act of 1891, s. 23). In actual practice it is so often found that the petitioner dates the petition at the time that it is signed; this may lead to fatal results so far as concerns the legality of the forms, for, if it is dated before either of the dates on the accompanying medical certificates, it is clear that the presentation is *prima facie* illegal, since a petition can only legally be presented when accompanied by two medical certificates (section 4 (2)). The error is, however, capable of subsequent amendment (section 34) if the petition was actually presented with the certificates, and it can be shown that the date given as the day of presentation, was a clerical error.

Introduct.

CHAP. III.

Contents of
petition.Signature
and date.

The statement of particulars accompanying the petition should be in the Form 2 in the Second Schedule (section 339). It need not be made by the petitioner, but must be signed by the person making it (section 5 (4)), who, if not the petitioner, must add to his signature his name and Christian name at length, his rank, profession, or occupation (if any) and how he

Statement of
particulars.

Introduct. is related to or otherwise connected with the patient. (See Form 22.)

CHAP. III.

Medical certificates.

By whom to be signed.

The two medical certificates accompanying the petition should be in the Form 8 in the Second Schedule (section 339), and each of them must be on a separate sheet of paper (section 4 (2)). Each must be made and signed by a duly registered medical practitioner (section 28). One of the medical practitioners signing the certificates must, whenever practicable, be the usual medical attendant of the alleged lunatic (section 31), and neither of them may be the petitioner, or the manager or any regular medical attendant of the institution in which the lunatic is to be received, or the person who is to have charge of him as a single patient, or a person interested in the payments on account of the patient, or the husband or wife of any of the foregoing persons, or the father, father-in-law, mother, mother-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, partner, or assistant of any of the foregoing persons, or of the other medical practitioner (sections 30, 32). In cases where the reception order is signed by one of the persons who gives one of the medical certificates, see note to section 30, *post* ; if the lunatic is to be taken to a hospital, neither certifier may be a member of the managing committee of such hospital (section 32 (3)). If the lunatic is to be received into a hospital or licensed house, no Commissioner or visitor may sign either of the certificates unless he is directed to visit the patient by a county court judge, magistrate, or special justice, or by the Lord Chancellor, a Secretary of State, or committee appointed on inquisition (section 33). Each of the certifying medical practitioners must, personally, and separately from the other, examine the alleged lunatic not more than seven clear days (nine days in all) before the date of the presenting of the petition (section 29), and must clearly state in the certificate the time and place of such examination. Each certificate must state the facts upon which the certifier has formed his opinion that the alleged lunatic is a lunatic, distinguishing facts observed by himself from facts communicated by others. As regards facts communicated by others, the names, addresses, and descriptions of informants must be stated (section 28 (2)). If any of the facts have been observed by the certifying practitioner on different occasions it should be so stated and the dates of such separate observations should be given.

Previous personal examination.

Grounds of opinion.

Where a previous petition relating to the same alleged lunatic has been dismissed, the copy of the statement sent to the Commissioners of the reasons for its dismissal, which must accompany the petition, as above stated, must be obtained from the Commissioners by the petitioner at his own expense (section 7 (4)).

Introduct.

CHAP. III.

Dismissal of
previous
petition.

A judicial authority may, if he considers it expedient, transfer a petition for a reception order presented to him to any other judicial authority who is willing to receive the same, whether such other judicial authority has or has not jurisdiction in the place where the lunatic is, and such other judicial authority will then have the same powers as the judicial authority to whom the petition was presented would have had (Act of 1891, s. 24 (2)).

Transfer of
petition.

If on the presentation of the petition to a county court judge or stipendiary magistrate, the judge or magistrate is unable to proceed without interfering with or delaying the exercise of his ordinary jurisdiction, he may make a certificate of such inability in the prescribed form stating the grounds of it, and thereupon send the petition and accompanying documents, with the certificate, by registered post, to the justices' clerk of the petty sessional division or borough where the lunatic is, to be by him transmitted to some other judicial authority, who is to proceed thereon as if the petition had been presented to him in the first instance. A county court judge making such a certificate must send a copy to the Lord Chancellor, and a magistrate making the like certificate must send a copy to the Home Secretary (see Rules made respectively by the Lord Chancellor, dated 29th March, 1890, and by the Secretary of State, dated 31st March, 1890, *post*, pp. 568, 569).

Upon the presentation of a petition not so sent on, the judicial authority must consider the allegations in the petition and statement of particulars and the evidence of lunacy appearing by the medical certificates, and whether it is necessary for him personally to see and examine the alleged lunatic (section 6). (Under the Mental Deficiency Act, 1913, in the case of defectives under that Act such personal examination is obligatory.) The medical certificates are evidence of the facts therein appearing and of the judgment therein stated to have been formed by the certifying medical practitioners on such facts, as if the matters therein appearing had been verified on oath (section 28 (4)). If the judicial authority is satisfied

Presentation
of petition.

Medical
certificates
are evidence.

Introduc- that an order may properly be made forthwith, he may make
 CHAP. III. the same accordingly (section 6 (1)), without personally seeing
 and examining the alleged lunatic.

The order should be in the Form 3 in the Second Schedule
 (section 339).

When no
 order can be
 made.

No order may be made by a judicial authority who is a
 relative of the petitioner or of the lunatic, or of the husband or
 wife of the lunatic (section 4 (1)). As to the case of a reception
 order being signed by the person who gave one of the medical
 certificates, see note to section 30. "Relative" means a
 lineal ancestor or lineal descendant, or a lineal descendant of an
 ancestor not more remote than great grandfather or great
 grandmother (section 341). No order may be made upon a
 medical certificate founded only upon facts communicated to the
 certifying medical practitioner by others (section 28 (2)). No
 order may be made unless each of the certifying medical
 practitioners has, separately from the other, personally ex-
 amined the alleged lunatic not more than seven clear days
 (nine days in all) before the date of the presentation of the
 petition (section 29).

Considera-
 tion of
 petition.

If the judicial authority is not satisfied that an order may be
 properly made forthwith, he must appoint as early a time as
 practicable, not being more than seven days after the presenta-
 tion of the petition, for the consideration thereof, and he may
 make such further or other inquiries of or concerning the alleged
 lunatic as he may think fit. Notice of the time and place
 appointed for the consideration of the petition (unless personally
 given to the petitioner) must be sent to the petitioner by post
 in a prepaid registered letter addressed to him at his address as
 given in the petition (section 6). If not satisfied with the
 evidence of lunacy appearing by the medical certificates, the
 judicial authority may visit the alleged lunatic at the place
 where he may happen to be (section 6 (2)).

Privacy of
 hearing.

The petition must be considered in private, and no one except
 the petitioner, the alleged lunatic (unless the judicial authority
 shall in his discretion otherwise order), any one person appointed
 by the alleged lunatic for that purpose, and the medical prac-
 titioners signing the medical certificates accompanying the
 petition may, without the leave of the judicial authority, be
 present at the consideration of the petition (section 6 (3)).
 Every judicial authority and all persons admitted to be present

at the consideration of the petition, or otherwise having official cognisance of the fact that a petition has been presented, except the alleged lunatic and the person appointed to attend the consideration on his behalf, must keep secret all matters and documents which may come to his or their knowledge by reason thereof, except when required to divulge the same by lawful authority (section 6 (5)). At the time appointed for the consideration of the petition the judicial authority may make an order thereon or dismiss the petition, or, if he thinks fit, may adjourn the consideration for any period not exceeding a fortnight for further evidence or information, and may give notice to such persons as he thinks fit of the adjourned consideration and summon any person to attend before him (section 6 (4)). Every judicial authority, in the exercise of the jurisdiction conferred by the Act, has the same jurisdiction and powers as regards the summoning and administration of witnesses, the administration of oaths, and otherwise, as if he were acting in the exercise of his ordinary jurisdiction, and must be assisted, if he so requires, by the same officers as if he were so acting, and their assistance must be considered in fixing their remuneration (section 9 (2)).

Introduct.

CHAP. III.

Order on
consideration.Summoning
and swearing
of witnesses.

If the petition is dismissed the judicial authority must deliver to the petitioner a written statement under his hand of his reasons for its dismissal, and if the alleged lunatic is detained under an urgency order, the judicial authority must also send notice by post or otherwise to the person in whose charge the alleged lunatic is, that the petition has been dismissed. The judicial authority must also send to the Lunacy Commissioners a copy of the statement of his reasons for dismissing the petition ; and whether he makes or refuses a reception order, must give them all the information they may require as to the circumstances under which the order was made or refused (section 7).

Dismissal of
petition.

On the dismissal of the petition or the release of the alleged lunatic, the Commissioners may communicate to him, or to any person who may satisfy them that he is a proper person to receive it, such information as they may think proper (section 7 (3)).

If a reception order is made, and appears to be in conformity with the Act, it is a sufficient authority for the petitioner, or any person authorised by him, to take the lunatic and convey him to the place mentioned in such order, and for his reception

Authority of
reception
order.

Introduct. and detention therein, and the order may be acted on without further evidence of the signature or of the jurisdiction of the person making the order (section 35 (1)). The order, together with the petition, statement of particulars, and medical certificates upon which the order was made, must be delivered or sent by post to the petitioner, and must, by him or his agent, be delivered to the manager of the institution for lunatics in which, or to the person by whom, the lunatic is to be received (section 35 (2)). The order ceases to be of any force unless the lunatic has been received thereunder before the expiration of seven clear days (nine days in all) from its date (section 36 (3)).

Personal
interview
after
reception.

When a lunatic has been received as a private patient under an order of a judicial authority, without a statement in the order that the patient has been personally seen by such judicial authority, the patient has the right to be taken before or visited by a judicial authority having authority to act in the place where the patient is, other than the judicial authority who made the order, unless the medical officer of the institution, or in the case of a single patient his medical attendant, within twenty-four hours after reception, in a certificate signed and sent to the Commissioners, states that the exercise of such right would be prejudicial to the patient (section 8 (1) (4)). The certificate should be in the Form 5 in the Second Schedule (section 339). Where no such certificate has been signed and sent, the manager of the institution in which the patient is, or the person having charge of him as a single patient, must within twenty-four hours after reception, give to the patient a notice in writing of his right to be taken before or visited by a judicial authority as above mentioned, and must ascertain if the patient desires to exercise that right (section 8 (2)). This notice should be in the Form 6 in the Second Schedule (section 339). And if the patient, within seven days after his reception, expresses his desire to exercise the right, the manager or person having charge of him must procure him to sign a notice of such desire (section 8 (2)). This notice was in Form No. 7 in the Second Schedule, but it has been altered by a rule of the Commissioners dated 12th March, 1913, *post*. And the manager or person in charge must forthwith transmit it by post in a prepaid registered letter to the judicial authority who is to exercise the jurisdiction, or to the justices' clerk of the petty sessional division or borough

where the lunatic is, to be by him transmitted to the judicial authority, and the judicial authority must thereupon arrange, as soon as conveniently may be, either to visit the patient or to have the patient brought before him by the manager or person in charge as the judicial authority may think fit (section 8 (2)). The judicial authority is entitled, if he desires to do so, to see the medical certificates and any other documents, upon the consideration of which the reception order was made, and must after personally seeing the patient send to the Commissioners a report, and the Commissioners must take such steps as may be necessary to give effect to the report (section 8 (3)). If any manager of an institution for lunatics, or any person having charge of a single patient, omits to perform any duty imposed on him as above stated he will be guilty of a misdemeanor (section 8 (5)).

Introduct.
CHAP. III.

At any time during the life of the petitioner, or after his death, the Commissioners may by order substitute for him any other person willing to undertake his duties and responsibilities, and such substituted person will thenceforward be subject to all the obligations, and may exercise all the powers and authorities, of the petitioner in relation to the patient, but the petitioner and his estate will not thereby be released from any liabilities already incurred. The order of substitution may be made without the consent of the petitioner after a fourteen days' notice and an opportunity of giving reasons why the order should not be made (section 48).

Substitute for
petitioner.

C. PAUPER LUNATICS AND LUNATICS WHO THOUGH NOT PAUPERS MAY BE DEALT WITH UNDER A SUMMARY RECEPTION ORDER UNDER SECTION 13.

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| <ol style="list-style-type: none"> 1. <i>Summary Reception Orders.</i> 2. <i>Lunatics not under proper Care and Control or Cruelly Treated or Neglected.</i> 3. <i>Resident Pauper Lunatics.</i> 4. <i>Wandering Lunatics.</i> 5. <i>Lunatics in Workhouse who ought to be sent to Asylum.</i> | <ol style="list-style-type: none"> 6. <i>Suspension of Removal under Summary Reception Order.</i> 7. <i>Temporary Removal to Workhouse.</i> 8. <i>Medical Fees and other Expenses.</i> 9. <i>Reception Order by a Commissioner.</i> |
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1. *Summary Reception Orders.*] An order made for the reception of a lunatic, if made by a justice otherwise than upon

Summary
reception
orders.

Introd. petition, is called a "summary reception order" (section 19).

CHAP. III.

Such orders may be made as regards (1) lunatics not under proper care and control or cruelly treated or neglected (section 13), this section applies to persons who are not paupers (but see Lunacy Act, 1891, s. 3, *post*) ; (2) pauper lunatics resident within a district or parish of a relieving officer or overseer (section 14 (2) and (3)) ; and (3) lunatics wandering at large (sections 15 and 16).

Sections 13 to 27 deal generally with Summary Reception Orders, and will be found to provide for lunatics under various conditions not specified under the three headings, *supra*.

Information
by constable.

2. *Lunatics not under proper Care and Control or Cruelly Treated or Neglected.*] Every constable, relieving officer and overseer of a parish, who has knowledge that any person within his district or parish, who is not a pauper and not wandering at large, is deemed to be a lunatic and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, must, within three days after obtaining such knowledge, swear an information thereof before a justice being a judicial authority under the Act (section 13 (1)). If the guardians, with the sanction of the Local Government Board, have directed one relieving officer to discharge throughout the union the duties of a relieving officer in respect of lunatics, every other relieving officer having such knowledge as above stated, need only inform the officer so directed of the case, and it will then be the duty of the officer so directed to swear the information (Act of 1891, s. 2 (2)).

Temporary
removal to
workhouse
in urgent
cases.

If the constable, relieving officer, or overseer is satisfied that it is necessary for the public safety or the welfare of the alleged lunatic that the alleged lunatic should, before the information can be sworn, be placed under proper care and control, he may remove the alleged lunatic to the workhouse of the union or parish in which the alleged lunatic is. And the master of the workhouse must, unless there is no proper accommodation in the workhouse for the alleged lunatic, receive and relieve and detain the alleged lunatic therein for three days and no longer. And before the three days have expired the constable, relieving officer, or overseer must swear an information, as above described, before a justice being a judicial authority under the Act (section 20).

Upon such information, or upon a similar information sworn by any person whomsoever, before a justice being a judicial authority under the Act, the justice may visit the alleged lunatic, and must, whether making such visit or not, direct and authorise two duly registered medical practitioners to visit and examine the alleged lunatic and to certify their opinion as to his mental state (section 13 (2)).

Introduct.
—
CHAP. III.
Medical
examination
by order of
justice.

Each of the medical practitioners must examine the alleged lunatic separately from the other (section 29 (2)). Neither of them may be the manager or any regular medical attendant of any institution to which the lunatic is sent, or the husband or wife of such manager or medical attendant, or the father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law of such manager or medical attendant, or of the other certifying medical practitioner, or be a member of the managing committee of any hospital to which the lunatic may be sent (section 32). Each must make and sign a separate certificate.

Each certificate should be in the Form 8 in the Second Schedule (section 339). Each certificate must state the facts upon which the certifier has formed his opinion that the alleged lunatic is a lunatic, distinguishing facts observed by himself from facts communicated by others, and, as regards such last-mentioned facts, the names and Christian names (if known) of his informants must be given, with their addresses and descriptions (section 28 (2)).

The justice must proceed in the same manner as far as possible, and have, as to the alleged lunatic, the same powers as if a petition for a reception order had been presented by the person by whom the information with regard to the alleged lunatic has been sworn (section 13 (2)).

Procedure by
justice.

The medical certificates made under the justice's order are evidence of the facts therein appearing and of the judgment therein stated to have been formed by the certifying medical practitioners on such facts, as if the matters therein appearing had been verified on oath (section 28 (4)).

Medical
evidence.

If upon the medical certificates, or after such other or further inquiry as the justice thinks necessary, he is satisfied that the alleged lunatic is a lunatic, and is not under proper care and control, or is cruelly treated or neglected by any relative or

When
reception
order may
be made.

Introduct. other person having the care or charge of him, and that he is a proper person to be taken charge of and detained under care and treatment, the justice may by order direct the lunatic to be received and detained in an institution for lunatics to which, if a pauper, he might be sent under the Act (section 13 (3)).

CHAP. III.

No order may be made upon a medical certificate founded only upon facts communicated to the certifying medical practitioner by others (section 28 (2)). No order may be made unless each of the certifying medical practitioners has, separately from the other, personally examined the alleged lunatic, not more than seven clear days before the date of the order (section 29 (1), (2)).

Form of
order.
To what
asylum.

The order should be in the Form 15 of the Second Schedule (section 339). It must direct that the lunatic shall be received into the asylum for the county or borough in which the place from which the lunatic is sent is situate, unless there is no such asylum, or there is a deficiency of room, or there are some special circumstances by reason whereof the lunatic cannot conveniently be taken to such asylum (section 27 (2)). The regulations of an asylum may provide that any number of beds shall be reserved for specified cases, and the asylum is to be deemed full as regards the admission of cases not within the class for which beds are reserved, when there are no vacant beds except those so reserved (section 275 (4)). The regulations may also provide for the exclusion of persons afflicted with contagious or infectious diseases, or coming from a place in which such disease may be prevalent (section 275 (5)). If there is no asylum for the county or borough in which the place from which the lunatic is sent is situate, or if there is a deficiency of room, or other special circumstances by reason of which the lunatic cannot conveniently be taken to such asylum, the order must state that the justice making the order is satisfied that there is no asylum of such county or borough, or that there is a deficiency of room in such asylum, or (as the case may be) the special circumstances by reason whereof the lunatic cannot conveniently be taken to an asylum for the first-mentioned county or borough, and then it may authorise his reception into any other institution for lunatics (section 27 (1), (2)). See also notes to section 13 (3) of the principal Act, and section 3 of the Lunacy Act, 1891, *post*, pp. 172, 473.

The constable, relieving officer, or overseer upon whose information the order has been made, or any constable whom the justices may require so to do, must either forthwith convey the lunatic to the institution named in the order (section 13 (3)), or may make proper arrangements for the performance of the duty by some other person or persons (Act of 1891, section 2 (1)).

Introduct.

CHAP. III.

Conveyance
to asylum.

The order, if it appears to be in conformity with the Act, is sufficient authority for the justice authorised so to do by the person making the order to take the lunatic and convey him to the place mentioned in such order and for his reception and detention therein, and the order may be acted upon without further evidence of the signature or of the jurisdiction of the justice making the order (section 35 (1)). The execution of the order may, however, be suspended (section 19 (1)), or the lunatic may be temporarily removed to the workhouse as hereinafter mentioned. But except in such cases the reception order ceases to be of any force unless the lunatic has been received thereunder before the expiration of seven clear days (nine days in all) from its date (section 36 (3)).

Authority of
order.

3. Resident Pauper Lunatics.] Every medical officer of a union or parish who has knowledge that a pauper resident within his district is or is deemed to be a lunatic and a proper person to be sent to an asylum must, within three days after obtaining such knowledge, give notice thereof in writing to the relieving officer of the district, or if there is no such officer to an overseer of the parish where the pauper resides (section 14 (1)).

Notice by
medical
officer.

Every relieving officer, and every overseer of a parish of which there is no relieving officer, who has knowledge, either by notice from a medical officer or otherwise, that any pauper resident within his district or parish is deemed to be a lunatic, must, within three days after obtaining such knowledge, give notice thereof to a justice having jurisdiction in the place where the pauper resides (section 14 (2)). If the guardians with the sanction of the Local Government Board have directed one relieving officer to discharge throughout the union, the duties of a relieving officer in respect of lunatics, every other relieving officer having such knowledge as above stated need only inform the officer so directed of the case, and it will then be the duty

Notice to
justice.

Introduct. of that officer to give notice to such justice (Act of 1891, s. 2 (2)).

CHAP. III.

Temporary
removal to
workhouse in
urgent cases.

If the relieving officer or overseer is satisfied that it is necessary for the public safety or the welfare of the alleged lunatic that the alleged lunatic should, before such notice can be given, be placed under care and control, the relieving officer or overseer may remove the alleged lunatic to the workhouse of the union or parish in which the alleged lunatic is ; and the master of the workhouse must, unless there is no proper accommodation in the workhouse for the alleged lunatic, receive and relieve and detain the alleged lunatic therein for three days and no longer. And before the three days have expired the relieving officer or overseer must give the notice to a justice as above described (section 20).

Justice's order
to bring up
lunatic.

The justice upon receiving such notice may order the relieving officer or overseer giving the notice to bring the alleged lunatic before him, or before some other justice having jurisdiction in the place where the pauper resides, at such time and place within three days from the time of the notice to the justice as shall be appointed by the order (section 14 (3)).

Medical
examination
by direction
of justice.

The justice before whom the pauper is brought must call in a medical practitioner, and must examine the alleged lunatic, and make such inquiries as he thinks advisable (section 16).

The medical practitioner who is called in should not be the manager or any regular medical attendant of the institution for lunatics into which the lunatic is to be received if an order is made, nor the husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner or assistant of such manager or medical attendant, nor a member of the managing committee of any hospital into which the lunatic is to be received (section 32), nor a Commissioner or visitor of any licensed house into which the lunatic is to be received (section 33).

The medical practitioner should examine the alleged lunatic, and if he makes a certificate it should be in the Form 8 in the Second Schedule (section 339). The certificate must state the facts upon which the medical practitioner has formed his opinion that the alleged lunatic is a lunatic, distinguishing facts observed by himself from facts communicated by others, and with regard to such last-mentioned facts, giving the names of

his informants with their addresses and descriptions (section 28 (2)). Introduct.

Instead of ordering the alleged lunatic to be brought before him or before some other justice having jurisdiction in the place where the pauper resides, the justice to whom the notice as to the alleged lunatic was given may examine the alleged lunatic at his own house or elsewhere (section 17). But if he does so he must, nevertheless, call in a medical practitioner, and has no power to make an order upon his own knowledge only.

If upon examination or other proof the justice is satisfied that the alleged lunatic is a lunatic and a proper person to be detained, and if the medical practitioner who has been called in signs a medical certificate with regard to the lunatic, the justice may by order direct the lunatic to be received and detained in the institution for lunatics named in the order (section 16).

CHAP. III.

Examination
without order
for bringing
up lunatic.

When
reception
order may
be made.

No order may be made upon a medical certificate founded only upon facts communicated to the certifying medical practitioner by others (section 28 (2)). No order may be made unless the certifying medical practitioner has personally examined the alleged lunatic not more than seven clear days before the date of the order (section 29 (1)).

The justice must not sign the order unless he is satisfied that the alleged pauper is either in receipt of relief or in such circumstances as to require relief for his proper care. A person who is visited by a medical officer of the union or parish, at the expense of the union or parish, is, for this purpose, to be deemed in receipt of relief (section 18).

Alleged
pauper
must be
destitute.

Before the justice signs the order, he must in every case see the alleged pauper lunatic or lunatic wandering at large, and the order must not be signed until after the medical practitioner has signed the medical certificate. (See notes to section 16, *post*, p. 174, *seq.*)

The order should be in Form 12 of the Second Schedule (section 339). It must direct that the lunatic shall be received into the asylum for the county or borough in which the place from which the lunatic is sent is situate, unless there is no such asylum or there is a deficiency of room, or other special circumstances by reason whereof the lunatic cannot conveniently be taken to such asylum (section 27 (2)). The regulations of an asylum may provide that any number of beds shall be reserved

Form of
reception
order.
To what
asylum.

Introduct. for specified cases, and the asylum is to be deemed full, as regards the admission of cases not within the class for which beds are reserved, when there are no vacant beds except those so reserved (section 275 (4)). The regulations may also provide for the exclusion of persons afflicted with contagious or infectious diseases, or coming from a place in which such disease may be prevalent (section 275 (5)). If there is no asylum for the county or borough in which the place from which the lunatic is sent is situate, or if there is a deficiency of room, or other special circumstances by reason whereof the lunatic cannot conveniently be taken to such asylum, the order must state that the justice making the order is satisfied that there is no asylum of such county or borough, or that there is a deficiency of room in such asylum, or (as the case may be) the special circumstances by reason whereof the lunatic cannot conveniently be taken to an asylum for the first-mentioned county or borough, and then it may authorise his reception into any other institution for lunatics (section 27 (1), (2), and note to Form 12). If in such case the other institution is an asylum, the order must be endorsed by a visitor of that asylum, unless there is a subsisting contract for the reception therein of lunatics of the county or borough in which the place from which the lunatic is sent or the parish in which he is adjudged to be settled is situate (section 27 (3)).

**Conveyance
to asylum.**

The relieving officer, or overseer who brought the lunatic before the justice, must either forthwith after the order is made convey the lunatic to the institution named therein (section 16), or may make proper arrangements for the performance of the duty by some other person or persons (Act of 1891, s. 2 (1)).

**Authority of
order.**

The order, if it appears to be in conformity with the Act, is a sufficient authority for the person authorised so to do by the justice making the order to take the lunatic and convey him to the place mentioned in such order and for his reception and detention therein, and the order may be acted on without further evidence of the signature or of the jurisdiction of the justice making the order (section 35 (1)). The execution of the order may, however, be suspended or the lunatic may be temporarily removed to the workhouse as hereinafter mentioned. But except in such cases the reception order ceases to be of any force unless the lunatic has been received thereunder before the

expiration of seven clear days (nine days in all) from its date Introduct.
(section 36 (3)).

CHAP. III.

4. *Lunatics Wandering at Large.*] Every constable, relieving officer, and overseer who has knowledge that any person (whether a pauper or not) wandering at large within his district or parish is deemed to be a lunatic must immediately apprehend and take him or cause him to be apprehended and taken before a justice (section 15 (1)). If the guardians with the sanction of the Local Government Board have directed one relieving officer to discharge throughout the union the duties of a relieving officer in respect of lunatics, every other relieving officer having such knowledge as above stated need only inform the officer so directed of the case, and it will then be the duty of that officer to apprehend the lunatic and take him before a justice (Act of 1891, s. 2 (2)). But if such constable, relieving officer, or overseer is satisfied that it is necessary for the public safety, or the welfare of the alleged lunatic, that the alleged lunatic should, before he can be taken before a justice, be placed under care and control, the constable, relieving officer, or overseer may remove him to the workhouse of the union or parish in which the alleged lunatic is. And the master of the workhouse must, unless there is no proper accommodation in the workhouse for the alleged lunatic, receive, relieve, and detain the alleged lunatic therein for three days and no longer. And before the three days have expired the constable, relieving officer, or overseer, must take the alleged lunatic before a justice (section 20).

Apprehension
of wandering
lunatic.

Temporary
removal to
workhouse
in urgent
cases.

The justice before whom the alleged lunatic is brought must call in a medical practitioner, and examine the alleged lunatic, and make such inquiries as he thinks advisable (section 16).

Medical
examination
by direction
of justice.

The medical practitioner who is called in should not be the manager or any regular medical attendant of the institution for lunatics into which the lunatic is to be received if an order is made, nor the husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner or assistant, of such manager or medical attendant, nor a member of the managing committee of any hospital into which the lunatic is to be received (section 32), nor a Commissioner, nor a visitor of any licensed house into which the lunatic is to be received (section 33).

Introduct. The medical practitioner should examine the alleged lunatic, and if he makes a certificate, it should be in the Form 8 in the Second Schedule (section 339). The certificate must state the facts upon which the medical practitioner has formed his opinion that the alleged lunatic is a lunatic, distinguishing facts observed by himself from facts communicated by others, and with regard to such last-mentioned facts, giving the names of his informants, with their addresses and descriptions (section 28 (2)).

CHAP. III.

Examination
without
bringing up
lunatic.

Instead of having the alleged lunatic brought before him, the justice may go to examine the alleged lunatic, wherever the alleged lunatic may be, within his jurisdiction (section 17). But if he does so he must, nevertheless, call in a medical practitioner, and has no power to make an order upon his own knowledge only.

When
reception
order may
be made.

If upon examination or other proof the justice is satisfied that the alleged lunatic is a lunatic, and was wandering at large, and is a proper person to be detained, and if the medical practitioner who has been called in signs a medical certificate with regard to the lunatic, the justice may by order direct the lunatic to be received and detained in the institution for lunatics named in the order (section 16). No order shall be made in the case of a wandering lunatic until the justice has seen the alleged lunatic, nor shall it be made until after the medical practitioner has signed his certificate. (See notes to section 16, *post*, p. 174 *seq.*)

No order may be made upon a medical certificate founded only upon facts communicated to the certifying medical practitioner by others (section 28 (2)). No order may be made unless the certifying medical practitioner has personally examined the lunatic not more than seven clear days (nine days in all) before the date of the order (section 29 (1)).

Form of
order.

The order should be in Form 12 of the Second Schedule (section 339).

To what
asylum.

The order must direct that the lunatic shall be sent to the asylum for the county or borough in which the place from which he is sent is situate, unless there is no such asylum, or there is a deficiency of room, or there are some special circumstances by reason whereof the lunatic cannot conveniently be taken to such asylum (section 27 (2)). The regulations of an asylum may provide that any number of beds shall be reserved for specified

cases, and the asylum is to be deemed full as regards the admission of cases not within the class for which beds are reserved, when there are no vacant beds except those so reserved (section 275 (4)). The regulations may also provide for the exclusion of persons afflicted with contagious or infectious diseases, or coming from a place in which such a disease may be prevalent (section 275 (5)). If there is no asylum for the county or borough in which the place from which the lunatic is sent is situate, or if there is a deficiency of room in such asylum, or other special circumstances by reason of which the lunatic cannot conveniently be taken to such asylum, the order must state that the justice making the order is satisfied that there is no asylum of such county or borough, or that there is a deficiency of room in such asylum, or (as the case may be) the special circumstances by reason whereof the lunatic cannot conveniently be taken to an asylum for the first-mentioned county or borough, and then it may authorise his reception into any other institution for lunatics (section 27 (1), (2), and note to Form 12). If in such case the other institution is an asylum and the lunatic is a pauper, the order must be endorsed by a visitor of that asylum unless there is a subsisting contract for the reception therein of lunatics of the county or borough in which the place from which the lunatic is sent or the parish in which he is adjudged to be settled is situate (section 27 (3)).

Introduct.

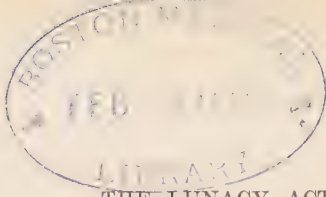
CHAP. III.

The constable, relieving officer, or overseer who brought the lunatic before the justice, or any constable whom the justice may require so to do, must either forthwith after the order is made convey the lunatic to the institution named in the order (section 16), or may make proper arrangements for the performance of the duty by some other person or persons (Act of 1891, s. 2 (1)).

Conveyance
to asylums.

The order, if it appears to be in conformity with the Act, is a sufficient authority for the person authorised so to do by the justice making the order to take the lunatic and convey him to the place mentioned in such order, and for his reception and detention therein, and the order may be acted upon without further evidence of the signature or of the jurisdiction of the justice making the order (section 35 (1)). The execution of the order may, however, be suspended, or the lunatic may be temporarily removed to the workhouse as hereinafter mentioned. Except in such cases the reception order ceases to be of any

Authority of
order.



Introduc. force unless the lunatic has been received thereunder before the expiration of seven clear days (nine days in all) from its date (section 36 (3)).

CHAP. III.

Notice by
workhouse
medical
officer to
relieving
officer.

5. *Lunatic in Workhouse who ought to be Removed to Asylum.*] If in the case of a lunatic being in a workhouse (1) the workhouse medical officer does not sign a certificate in Form 10 of the Second Schedule (section 339) for his detention in the workhouse, or (2) if at or before the expiration of fourteen days from the date of the certificate an order is not made by a justice for the detention of the lunatic in the workhouse, or (3) if after such an order has been made the lunatic ceases to be a proper person to be detained in a workhouse, the workhouse medical officer must forthwith give notice thereof in writing to a relieving officer of the union or parish to which the workhouse belongs.

Notice by
relieving
officer to
justice.

The relieving officer must, within three days after receiving such notice, give notice thereof to a justice having jurisdiction in the place where the workhouse is situate (sections 24 (6) and 14 (2)), although it is situate in a county not including the union to which the workhouse belongs (Act of 1891, s. 6). Or, if the union or parish to which the workhouse belongs is situate in more than one county, and the workhouse is in one county and the place from which the lunatic was sent to the workhouse is in another county, the relieving officer may give the notice to a justice for the county from which the lunatic was sent (section 68).

Order to
bring up
lunatic.

The justice, upon receiving such notice, may order the relieving officer to bring the alleged lunatic before him, or before some other justice having jurisdiction in the place where the workhouse is situate (although the workhouse is situate in a county which does not include the union to which the workhouse belongs (Act of 1891, s. 6)), or, where the union or parish to which the workhouse belongs is situate in more than one county, and the workhouse is situate in one county and the place from which the lunatic was sent to the workhouse is situate in another county, then before some other justice for the county in which the workhouse is or for the county from which the lunatic was sent (section 68), at such time and place within three days from the time of the notice as may be appointed by the order (sections 24 (6) and 14 (3)).

The justice before whom the lunatic is brought must call in a medical practitioner, and must examine the alleged lunatic, and make such inquiries as he thinks advisable (sections 24 (6) and 16).

Introduct.
CHAP. III.
Medical
examination.

The medical practitioner who is called in should not be the manager or any regular medical attendant of the institution for lunatics into which the lunatic is to be received if an order is made, nor the husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner, or assistant of such manager or medical attendant nor a member of the managing committee of any hospital into which the lunatic is to be received (section 32), nor a Commissioner, or visitor of any licensed house into which the lunatic is to be received (section 33). There is no reason why he should not be the workhouse medical officer or any assistant workhouse medical officer or any district medical officer of the union or parish.

The medical practitioner should examine the alleged lunatic, and if he makes a certificate it should be in the Form 8 in the Second Schedule (section 339). The certificate must state the facts upon which the medical practitioner has formed his opinion that the alleged lunatic is a lunatic, distinguishing facts observed by himself from facts communicated by others, and with regard to such last-mentioned facts, giving the names of his informants, with their addresses and descriptions (section 28 (2)).

Instead of ordering the alleged lunatic to be brought before him, or before some other justice as aforesaid, the justice to whom the notice is given by the relieving officer may examine the alleged lunatic in the workhouse or elsewhere (sections 24 (6) and 17). But if he does so he must, nevertheless, call in a medical practitioner, and cannot make an order upon his own knowledge only, and the order may only be made after the medical practitioner has given his certificate. (See note to section 16, *post*, p. 174, *seq.*)

Examination
without order
to bring up.

If, upon examination or other proof, the justice is satisfied that the alleged lunatic is a lunatic and a proper person to be sent to an asylum, and if the medical practitioner who has been called in signs a medical certificate with regard to the lunatic, the justice may by order direct the lunatic to be received and detained in the institution for lunatics named in the order (sections 24 (6) and 16).

When
reception
order may
be made.

Introduct. No order may be made upon a medical certificate founded only upon facts communicated to the certifying medical practitioner by others (section 28 (2)). Nor unless the certifying medical practitioner has personally examined the alleged lunatic not more than seven clear days before the date of the order (section 29 (1)).

CHAP. III.

Form of
reception
order.

To what
asylum.

The order should be in Form 12 of the Second Schedule (section 339). It must direct that the lunatic shall be received into the asylum for the county or borough in which the workhouse is situate (except in the case of a workhouse belonging to a union or parish extending into more than one county, or in the case of a workhouse situate in a county which does not include the union to which the workhouse belongs), unless there is no such asylum, or there is a deficiency of room, or other special circumstances by reason whereof the lunatic cannot conveniently be taken to such asylum (section 27 (2)). If there is no such asylum, or if there is a deficiency of room or other circumstances by reason whereof the lunatic cannot conveniently be taken to such asylum, the order must state that the justice making the order is satisfied that there is no such asylum, &c., as the case may be, and then it will authorise the reception of the lunatic into any other institution for lunatics (section 27 (1), (2)). But if such other institution is an asylum the order must be endorsed by a visitor of that asylum, unless there is a subsisting contract for the reception therein of the lunatics of the county or borough in which the workhouse from which the lunatic is sent, or the parish in which he is adjudged to be settled, is situate (section 27 (3)). Where the workhouse from which the lunatic is sent belongs to a union or parish extending into more than one county, and the workhouse is situate in one county and the place from which the lunatic was sent to the workhouse is situate in another county, the order may direct his removal to the asylum for the county in which the workhouse is or to the asylum for the county from which the lunatic was sent to the workhouse, and such latter order may be made notwithstanding that there may be an asylum for the county in which the workhouse is, and that there may not be a deficiency of room or any other special circumstances by reason of which the lunatic cannot conveniently be taken to that asylum (section 68). Where the workhouse is situate in a county which does not include the union to which the workhouse belongs, the order

may direct his removal to any asylum in which pauper lunatics chargeable to the union to which the workhouse belongs may legally be received (Act of 1891, s. 6). Introduct.
CHAP. III.

Pending the proceedings for his removal the lunatic may be detained in the workhouse (section 24 (6)). The relieving officer who brought the lunatic before the justice must either forthwith, after the order is made, convey the lunatic to the institution named therein (sections 24 (6) and 16), or may make proper arrangements for the performance of the duty by some other person or persons (Act of 1891, s. 2 (1)). Conveyance
to asylum.

The reception order, if it appears to be in conformity with the Act, is sufficient authority for the relieving officer authorised so to do by the justice making the order to take the lunatic and convey him to the place mentioned in the order and for his reception and detention therein, and the order may be acted on without further evidence of the signature or of the jurisdiction of the justice making the order (section 35 (1)). The execution of the order may, however, be suspended, or the lunatic temporarily removed to the workhouse, as hereinafter mentioned. But, except in such cases, the reception order ceases to be of any force unless the lunatic has been received thereunder before the expiration of seven clear days (nine days in all) from its date (section 36 (3)). Authority of
order.

6. *Suspension of Removal under Summary Reception Order.* Suspension by
justice's
order.
A justice making a summary reception order may suspend its execution for such period, not exceeding 14 days, as he thinks fit, and in the meantime may give such directions or make such arrangements for the proper care and control of the lunatic as he thinks proper (section 19 (1)).

Where a reception order has been made and the execution of the order has been suspended, the lunatic may be received in the institution for lunatics named in the order at any time within 14 days after the date of the reception order (section 36 (1)).

If a medical practitioner who examines a lunatic as to whom a summary reception order has been made certifies in writing that the lunatic is not in a fit state to be removed, the removal must be suspended until the same or some other medical practitioner certifies in writing that the lunatic is fit to be removed. And every medical practitioner who has certified that the Suspension
by medical
certificate.

Introduct. lunatic is not in a fit state to be removed is bound, as soon as in his judgment the lunatic is in a fit state to be removed, to give a certificate to that effect (section 19 (2)). No special form of certificate is required either for the suspension or for the subsequent removal.

CHAP. III.

If the removal of the lunatic has been suspended by reason of a medical certificate that the lunatic is not in a fit state for removal, the lunatic may be received in the institution for lunatics named in the order within three days after the date of a medical certificate that the lunatic is in a fit state to be removed (section 36 (2)).

Order for temporary detention for public safety.

7. Temporary Removal to Workhouse.] In any case where a summary reception order might be made any justice having jurisdiction in the place where the lunatic is, if satisfied that it is expedient for the welfare of the lunatic, or for the public safety, that the lunatic should forthwith be placed under care and control, and if it appears to him that there is proper accommodation for the lunatic in the workhouse of the union or parish in which the lunatic is, may make an order for taking the lunatic to and receiving him in that workhouse (section 21 (1), (4)).

Order for detention pending removal.

In any case where a summary reception order has been made, an order for taking the lunatic to and detaining him in the workhouse of the union or parish where he is, may be made by any justice having jurisdiction in the place where the lunatic is to provide for the detention of the lunatic until he can be removed (section 21 (2), (4)).

Duration of temporary orders.

Neither of the above-mentioned orders can authorise the detention of a lunatic in a workhouse for more than 14 days, after which period such detention is unlawful except in accordance with the provisions of the Act as hereinafter mentioned with regard to the detention of lunatics in workhouses (section 21 (3)).

Extension of time for removal to asylum.

Where a reception order has been made, and the lunatic named in the order has been temporarily taken to a workhouse under the foregoing provisions, he may be received in the institution for lunatics named in the order at any time within 14 days after the date of the reception order (section 36 (1)).

Justice's order for payment of expenses.

8. Medical Fees and Expenses.] Whenever a justice directs a lunatic or an alleged lunatic, whether a pauper or not, to be

examined by a medical practitioner under the provisions of the Act, the justice directing the examination, or any other justice having jurisdiction in the place where the examination took place, may make an order upon the guardians of the union or parish named in the order for payment of such reasonable remuneration to the medical practitioner, and of all such other reasonable expenses in and about the examination and the inquiry, whether an order for the reception of the alleged lunatic in an institution for lunatics or workhouse ought to be made, and also, if an order is made, for the payment of such reasonable expenses of carrying the order into effect as the justice thinks proper (section 285 (1)).

Introduct.
CHAP. III.

The guardians upon whom the order is made may recover any sums paid thereunder against the lunatic or alleged lunatic and his estate, and the person or authority legally liable for his maintenance as in the case of orders for maintenance (section 285 (2)).

9. Reception Orders by a Commissioner.] Any Commissioner may visit a pauper lunatic not in an institution for lunatics or workhouse, and may, if he thinks fit, call in a medical practitioner to examine the lunatic. If the medical practitioner signs a medical certificate with regard to the lunatic [which should be in Form S in the Second Schedule (section 339)], and the Commissioner is satisfied that the pauper is a lunatic, and a proper person to be detained, he may by order direct the lunatic to be received in an institution for lunatics, and the relieving officer of the district or any constable who may by him be required so to do must forthwith convey the lunatic to such institution (section 23, and Order in Council, March 9, 1914).

Removal of
out-door
pauper to
asylum.

The observations already made in relation to summary reception orders in the case of resident pauper lunatics so far as concerns the medical practitioner who is called in, the contents of the medical certificate, and the institution into which the order must direct the lunatic to be received, are equally applicable in the case of a reception order made by a Commissioner.

The order, if it appears to be in conformity with the Act, is a sufficient authority for the person authorised so to do by the Commissioner making the order to take the lunatic, and convey

Authority of
commis-
sioner's order.

Introduct. him to the place mentioned in such order, and for his reception and detention therein, and the order may be acted on without further evidence of the signature or of the jurisdiction of the Commissioner making the order (section 35 (1)). The order will cease to be of any force unless the lunatic has been received thereunder before the expiration of seven clear days (nine days in all) from its date (section 36 (3)).

CHAP. III.

D. AMENDMENT AND DURATION OF RECEPTION ORDERS.

- | | |
|-------------------------------------|-------------------------------------|
| 1. <i>Amendment.</i> | 3. <i>Removal and Transfer.</i> |
| 2. <i>Change of Classification.</i> | 4. <i>Duration and Continuance.</i> |

Incorrect or defective orders and certificates.

1. *Amendment.*] If an order or certificate for the reception of a lunatic is, after such reception, found to be in any respect incorrect or defective, it may, within fourteen days next after such reception, be amended by the person who signed the same. No amendment can be allowed unless it receives the sanction of the Commissioners, or of some one of them, and (in the case of a private patient) the consent of the judicial authority by whom the order for the reception of the lunatic may have been signed (section 34 (1)). If the Commissioners deem any certificate accompanying a reception order to be incorrect or defective, they may by a direction in writing addressed to the manager of the institution for lunatics, or to the person having the charge of a single patient, require the certificate to be amended by the person who signed it, and if the certificate is not duly amended to their satisfaction within fourteen days next after the reception of the patient, the Commissioners or any one of them may, if they or he think fit, make an order for the patient's discharge (section 34 (2)), and Order in Council, March 9, 1914). Every order and certificate amended under this section takes effect as if the amendment had been contained therein when it was signed (section 34 (3)).

Incorrect or defective certificates.

Effect of amendment.

Pauper becoming private patient and *vice versa*.

2. *Change of Classification.*] An order for the reception of a patient as a pauper extends to authorise his detention, though it may afterwards appear that he is entitled to be classified as a private patient. And an order for the reception of a private patient authorises his detention although it may afterwards

appear that he ought to be classified as a pauper patient (section 37 (1)).

Introduct.

CHAP. III.

3. Removal and Transfer.] If a patient is removed temporarily under the provisions of the Act (*e.g.*, on trial or for health under section 55) from the place in which he is confined, or is transferred from one place of confinement to another, the original order and certificate or certificates upon which he was received remain in force (section 37 (2)).

Temporary removal and transfers.

4. Duration and Continuance.] Every reception order will expire at the end of one year from its date ; unless such orders respectively are continued by special report and certificate of the medical officer of the institution for lunatics in which the patient is detained or of the medical attendant of the single patient (section 38 (1)). But in the case of any institution for lunatics the Commissioners may by order under their seal direct that the reception orders of patients detained therein shall, unless continued by such report and certificate, expire on any quarterly day next after the days on which the orders would expire as above mentioned (section 38 (2)).

Dates of expiry.
Continuous by special report and certificate.

The special report relates to the mental and bodily condition of the patient, the certificate certifies that the patient is still of unsound mind and a proper person to be detained under care and treatment (section 38 (1), Act of 1891, s. 7). They may include and refer to more than one patient (section 38 (8)). The Commissioners have accordingly determined that with respect to patients whose reception orders were dated on or prior to the 1st February, 1890, all those detained in each institution shall be included in one list or schedule in the form given in the Appendix to their Circular, dated 16th April, 1890. But as regards patients whose reception orders are dated subsequently to the 1st February, 1890, a separate document containing the report and certificate must be used for each patient, in the other form given in the Appendix to the same Circular.

The reports and certificates must be sent to the Commissioners not more than one [calendar] month nor less than seven days (eight days in all including the date of posting) before the date on which the order would expire (Act of 1891, s. 7). The person sending them must give to the Commissioners such further

Introduc^t. information concerning the patients to whom they relate as the Commissioners require (section 38 (5)).

CHAP. III.

The report and certificate will in each case (unless objected to by the Commissioners) keep the reception order in force for another year; and after such year it may by a similar process be continued in force for two years, then for three years, and then for successive periods of five years, so long as the patient is detained (Act of 1891, s. 7). It will therefore be seen that these reports should be sent in, at least eight days before the expiration of the first year, then again at the expiration of the second, fourth, seventh and twelfth years respectively, and then every five years, but the eight days' margin before the expiration of each period, must always be retained.

Further
inquiries.

If, however, in the opinion of the Commissioners the special report does not justify the accompanying certificate then, in the case of a patient in a hospital or licensed house or under care as a single patient the Commissioners must make further inquiry; and if dissatisfied with the result they or any two of them may by order direct his discharge. And in the case of a patient in an asylum the Commissioners must send a copy of the report, with any other information in their possession relating to the case, to the clerk to the visiting committee of the asylum, and the committee or any three of them must thereupon investigate the case and may discharge the patient or give such directions respecting him as they may think proper (section 38 (6)).

Detention on
expiration of
order.

The manager of any institution for lunatics, and any person having charge of a single patient, who detains a patient after he has knowledge that the order for his reception has expired, is guilty of a misdemeanor (section 38 (7)).

CHAP. IV.

CHAPTER IV.

CARE AND TREATMENT AND VISITATION.

The care and treatment and visitation of lunatics, as to whom a reception order has been made, are the subjects of provisions which may be divided for consideration into those relating to lunatics detained in institutions for lunatics, and

those relating to single patients. Subjoined to the statement of these provisions are the provisions relating to lunatics in private families and charitable establishments, lunatics in workhouses, and chargeable lunatics not detained in workhouses, nor under reception orders.

Introduct.
CHAP. IV.

A. LUNATICS IN INSTITUTIONS.

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|--------------------------------------------------|---------------------------------------------------------|
| 1. <i>Act to be complied with.</i> | 17. <i>Escape and Recapture.</i> |
| 2. <i>Books to be Kept.</i> | 18. <i>Absence on Trial or for Health.</i> |
| 3. <i>Entries on Reception.</i> | 19. <i>Boarding-out Paupers.</i> |
| 4. <i>Notices of Admission.</i> | 20. <i>Removal of Private Patients.</i> |
| 5. <i>Medical Attendance.</i> | 21. <i>Removal of Paupers.</i> |
| 6. <i>Medical Journal.</i> | 22. <i>Entries and Notices on Removal.</i> |
| 7. <i>Medical Case Book.</i> | 23. <i>Discharge of Private Patients.</i> |
| 8. <i>Reports at end of First Month.</i> | 24. <i>Discharge of Paupers.</i> |
| 9. <i>Half Yearly Lists and Statements.</i> | 25. <i>Entries and Notices on Discharge.</i> |
| 10. <i>Mechanical Restraint.</i> | 26. <i>Recovery.</i> |
| 11. <i>Ill-treatment.</i> | 27. <i>Death.</i> |
| 12. <i>Employment of Male Attendants.</i> | 28. <i>Search for Patient.</i> |
| 13. <i>Letters of Patients.</i> | 29. <i>Visitation of Asylums.</i> |
| 14. <i>Notices as to Letters and Interviews.</i> | 30. <i>Visitation of Hospitals and Licensed Houses.</i> |
| 15. <i>Visits of Friends.</i> | 31. <i>Special Visits.</i> |
| 16. <i>Diet of Paupers.</i> | |

1. *Act to be Complied with.*] Every person who, except under the provisions of the Acts, receives or detains a lunatic or alleged lunatic in an institution for lunatics, is guilty of a disobedience of Acts a misdemeanor.

2. *Books to be kept.*] By the Commissioners' Rules, dated 31st October, 1906, Rule 1, there must be kept in every institution for lunatics—

1. A Visitors' Book.
2. A Register (Civil) of Patients.
3. A Register (Medical) of Patients.
4. A Register of Discharges and Transfers.
5. A Register of Deaths.
6. A Medical Journal.
7. A Register of Mechanical Restraint.

Books to be kept.

Introd. 8. A Medical Case-book for Patients.

CHAP. IV. 9. A Post-mortem Book.

In every institution for lunatics into which both private and pauper patients are admitted, the registers and medical journals for each class of patients may be kept in separate books, or part of a book (Commissioners' Rules, 31st October, 1906, R. 1 (4)).

In all asylums which receive private patients, and in every hospital and licensed house, there shall be kept a patients' book, and in every hospital and licensed house which receives boarders, there shall also be kept a register of all voluntary boarders and a case-book for voluntary boarders for treatment (Commissioners' Rules, 31st October, 1906, R. 1 (2)).

Entries in
register of
patients.

3. *Entries on Reception.*] The clerk of every asylum, hospital and licensed house, or in institutions, having no clerk on the staff, the superintendent or the resident licensee, must, immediately on the reception of a lunatic, make an entry with respect to such lunatic in the Civil Register of Patients according to the prescribed form, and containing the particulars therein specified (Commissioners' Rules, 31st October, 1906, R. 4).

The entries in the medical register, other than those which are duplicate entries of those in the civil register, made on admission by the clerk, shall be supplied by the medical officer of every asylum, hospital or house within three months from the date of the reception of the patient.

Notice of
admission.

4. *Notices of Admission.*] The clerk of every asylum, the manager of every hospital, and the resident licensee of every licensed house must, in the case of a person not a pauper, within one clear day, and, in the case of a pauper and of a criminal lunatic, after the second and before the end of the seventh day after the patient's admission, send to the Board of Control a notice of admission, and also a copy of the reception order and medical certificate, or certificates, upon which the same was made, and in the case of reception orders upon petition, a copy of the petition and statement of particulars (Commissioners' Rules, 26th June, 1895, R. 8 (3)).

Copy of
reception
order and
other
documents.

The notice of admission must be in the Forms 8 or 9 in the Schedule to the Rules.

And the like officials must also, in every case, after the second, and before the end of the seventh, clear day after the patient's admission, send to the Board of Control a medical statement to be made and signed by the medical officer of the institution (Commissioners' Rules, 26th June, 1895, R. 8 (3)).

Introduct.
CHAP. IV.
Medical
statement
after
admission.

The medical statement must be in the Forms 8 or 10 (as the case may be) in the Schedule to the Rules.

The manager of any hospital or licensed house who omits to send to the Commissioners the above-mentioned documents and information upon the admission of a patient is guilty of a misdemeanor (section 316).

Penalty for
default.

The resident licensee of every licensed house within the jurisdiction of visitors must also, within the times above mentioned, send the like documents to the clerk of the visitors (Commissioners' Rules, 26th June, 1895, R. 8 (5)).

Copies for
visitors
of licensed
houses.

5. Medical Attendance.] A medical practitioner who has signed a certificate upon which a reception order in the case of a private patient has been made, may not be the regular professional attendant of the patient while detained under the order (section 43 (1)). And a medical practitioner who is a Commissioner or visitor, must not professionally attend upon a patient in a hospital or licensed house, unless he is directed to visit the patient by the person on whose petition the reception order was made, or by the Lord Chancellor, or a Secretary of State, or a committee appointed by the Judge in Lunacy (section 43 (2)).

Disqualifica-
tion of
medical
attendants.

6. Medical Journal.] The Medical Journal in an institution for lunatics must be kept by the medical officer, and every entry in it must be signed or initialed by the person making the entry (Commissioners' Rules, 26th June, 1895, R. 10). The prescribed entries must be made once a week, or at each visit to a licensed house at which visits by a medical practitioner at more distant intervals than once a week are permitted (*Ibid.*, R. 11). All entries must be made in a manner so clear and distinct as to be easily referred to and extracted, whenever the Commissioners require (*Ibid.*, R. 34).

Entries in
medical
journal.

7. Medical Case Book.] The Medical Case Book in an institution for lunatics must be kept by the medical officer, and every

Entries in
medical
case book.

Introduc. entry in it must be signed by the person making the entry
 CHAP. IV. (Commissioners' Rules, 26th June, 1895, R. 10, *post*). The prescribed entries are described in great detail in Rule 12. They must be made at least once in every week during the first month after reception and oftener when the nature of the case requires it. Afterwards in recent or curable cases they must be made at least once in every month, and in chronic cases subject to little variation, once in every three months (Rule 13). All special circumstances affecting the patient, including seclusion and mechanical restraint, and all accidents and injuries, must be at once recorded (*Ibid.*). All entries must be made in a manner so clear and distinct as to be easily referred to and extracted whenever the Commissioners require (Rule 34). The medical officer, whenever required so to do, by notice in writing from the secretary to the Board of Control, must send to the Commissioners of such Board a correct copy of all the entries, or of any particular entries or entry, relative to any specified patient or boarder who is or may have been confined in the institution (Rule 15).

Copies for
 Commis-
 sioners.

Report at end
 of first month. **8. Reports at end of First Month after Reception.]** At the expiration of one (calendar) month after the reception of a private patient (except under an order of removal or if the patient is a lunatic so found by inquisition (Act of 1891, s. 8)), the medical officer must prepare and send to the Commissioners a report on the bodily and mental condition of the patient (section 39 (1)). This report must be in the Form 13 in the Schedule to the Rules (Commissioners' Rules, 26th June, 1895, R. 9). The medical officer of every house licensed by justices must also at the same time send a copy of such report to the clerk to the visitors of licensed houses in the county or borough where the house is situate, to be by him laid before the visitors (section 39 (2)).

Visitation
 on report.

The Commissioners, after receiving the report upon any patient in a licensed house within their immediate jurisdiction, must arrange for a visit being paid as soon as conveniently may be to the patient by one or more of the Commissioners ; and the Commissioner or Commissioners so visiting must report to the Commissioners whether the detention of the patient is or is not proper (section 39 (3)).

The visitors, after receiving the report upon a private patient

in a licensed house in their county or borough, must arrange for a visit being paid to the patient by the medical visitor (either alone or with one or more of the other visitors), as soon as convenient. And, if on such visit there appears to be any doubt as to the propriety of the detention of the patient, such visitor or visitors must forthwith report the same in writing to the Commissioners, who must thereupon make all such further inquiries as may be necessary to satisfy themselves whether the patient is properly detained, or whether he ought to be discharged, or whether the case ought to be reported to the Lord Chancellor with a view to an inquisition (section 39 (4)).

Introduct.
CHAP. IV.

In the case of a private patient in an asylum or hospital the Commissioners, after receiving the report, must either arrange for a visit being paid to the patient as soon as convenient by one or more of the Commissioners, who must report to the Commissioners whether the detention of the patient is or is not proper; or the Commissioners must send a copy of the report to the clerk to the visiting committee of the asylum or to the managing committee of the hospital, and one or more members of the committee must thereupon, as soon as convenient, visit the patient and report to the committee whether his detention is proper or not, and the committee, or any three of them, may upon consideration of such last-mentioned report by writing under their hands discharge the patient or give such directions with regard to him as they may think fit (section 39 (7)).

If within a month after the reception of the patient the institution for lunatics into which he is received is visited by one or more Commissioners, or by any visitors, and the patient is there seen and examined by him or them, and the propriety of his detention reported upon as above described, no special visit need necessarily be paid to the patient after the receipt of the report at the end of the month (section 39 (8)).

When special
visit unneces-
sary.

If the Commissioners in any case determine that the patient ought to be discharged, they may make an order of discharge (section 39 (9)).

Discharge by
Commis-
sioners.

9. *Half-yearly Lists and Statements.*] On the 1st January and 1st July in every year the clerk of every asylum must prepare a list, made up to those dates, of all pauper lunatics then in the asylum. These lists must be in Form 22 of the Schedule to the Rules; and within fifteen days after the list

Half-yearly
pauper list.

Introduct. is prepared, the clerk must lay a copy before the visiting committee, and send a copy to the Commissioners, and another copy to the clerk of each local authority to whom the asylum belongs, to be laid before the local authority (Commissioners' Rules, 26th June, 1895, R. 29 (1), (2)).

CHAP. IV.

Half-yearly
medical
statement
(paupers).

The medical superintendent of every asylum, the superintendent of every hospital, and the resident licensee of every licensed house must once at least in every half-year send to the guardians of every union a statement of the mental and bodily condition of every pauper lunatic chargeable to such union (Commissioners' Rules, 26th June, 1895, R. 31).

Half-yearly
private list.

On the 1st January and 1st July in every year the clerk of every asylum receiving private patients must prepare a list, made up to those dates, containing the Christian names and surnames of all the private and criminal patients then in the asylum. This list must be in the Form 23 in the Schedule to the Rules. And within fifteen days after the list is prepared the clerk must send a copy to the Commissioners, and also send to the clerk of each local authority to which the asylum belongs a certificate under his hand of the number of private and criminal patients of each sex, which certificate is to be laid before each of such local authorities (Rule 29 (3)).

When not to
be applied.

10. Mechanical Restraint.] Mechanical means of bodily restraint must not be applied to any lunatic unless it is necessary for purposes of surgical or medical treatment, or to prevent the lunatic from injuring himself or others (section 40 (1)).

What are
mechanical
means.

Mechanical means of bodily restraint are and include all such instruments and appliances as the Commissioners may, by regulations to be made from time to time determine (section 40 (6)). The last regulation relating thereto was dated 25th June, 1913, *post*, p. 564.

Medical
certificate.

In every case where such restraint is applied a medical certificate must, as soon as it can be obtained, be signed by the medical officer of the institution describing the mechanical means used and stating the grounds upon which the certificate is founded (section 40 (2), (3)). A full record of every case of restraint by mechanical means must be kept from day to day (in the Register of Mechanical Restraint), and copies of the records and certificates must be sent to the Commissioners at the end of every quarter (section 40 (4)). For this purpose the manager of the institution must at the end of every

Records.

quarter send to the Commissioners a copy of every entry in the Register of Mechanical Restraint made during the quarter (Commissioners' Rules, 26th June, 1895, R. 18). Any person wilfully acting in contravention of the provisions of the Act as to the use of mechanical means of restraint is guilty of a misdemeanor (section 40 (7)).

Introduc.

CHAP. IV.

11. *Ill-treatment.*] If any manager, officer, nurse, attendant, servant, or other person employed in an institution for lunatics ill-treats or wilfully neglects a patient he is guilty of a misdemeanor, and liable on conviction on indictment to fine and imprisonment, both or either, at the discretion of the court, or on summary conviction to a penalty not exceeding 20*l.* nor less than 2*l.* for every offence (section 322).

Ill-treatment
and wilful
neglect.

If any manager, officer, nurse, attendant, or other person employed in any institution for lunatics carnally knows or attempts to have carnal knowledge of any female under care and treatment as a lunatic in the institution he is guilty of a misdemeanor and liable on conviction on indictment to imprisonment, with or without hard labour, for not more than two years. And consent is no defence (section 324). The Mental Deficiency Act, 1913 (section 56 (*a*), *post*, p. 813), affords greater scope for prosecution in the case of the abuse of female defectives under that Act, as it is not confined to a person employed in the institution, but extends to "any" person guilty of the offence.

Carnal abuse
of females.

12. *Employment of Males in care of Females.*] It is not lawful to employ any male person in any institution for lunatics in the personal custody or restraint of any female patient, and any person so employing a male person is liable to a penalty not exceeding 20*l.* But this does not extend to prohibit or impose a penalty on the employment of male persons on such urgent occasions as in the judgment of the manager renders such employment necessary, but the manager must in each case report the employment to the visiting Commissioners or visitors at their next visit (section 53).

Employment
of males in
care of
females.

13. *Letters of Patients.*] The manager of every institution for lunatics must forward unopened all letters written by any patient and addressed to the Lord Chancellor, or any Judge

Letters to
officials.

Introduct. in Lunacy, or to a Secretary of State, or to the Commissioners, or any of them, or to the person who signed the reception order of the patient, or on whose petition such order was made, or to the Chancery Visitors, or any of them, or any other visitors or visitor, or to the visiting committee, or any member of the visiting committee of the institution in which any patient writing such letters may be (section 41 (1)). And every manager who makes default in doing so renders himself liable to a penalty not exceeding 20*l.* for each offence (section 41 (2)).

Private letters. Any other letter if written by a private patient may be forwarded to its address at the discretion of the manager (section 41 (1)). Letters not so forwarded need not be laid before visiting Commissioners or visitors (Commissioners' Circular, 16th April, 1890). There does not, however, appear to be any right to forward letters to any person other than to the person to whom such letters are addressed.

Notices as to letters and interviews by private patients. **14. *Notices as to Letters and Interviews.***] Whenever the Commissioners so direct, (a) there must be posted up in every institution (unless there are no private patients therein) printed notices setting forth—

(a.) The right of every private patient to have any letter written by him forwarded as above-mentioned.

(b.) The right of every private patient to request a personal and private interview with a visiting Commissioner or visitor at any visit which may be made to the institution.

Posting of notices. These notices must be so posted that every private patient may be able to see them, and the visiting Commissioners or visitors may give directions as to the places in which such notices are to be posted (section 42 (1), (2), (3)).

Penalty for default. If the manager of any institution makes default in posting such notices or does not within ten days carry out any directions as to such notices given by the visiting Commissioners or visitors, he renders himself liable to a penalty not exceeding 20*l.* for each offence (section 42 (4)).

Visits of friends allowed by order. **15. *Visits of Friends.***] Any one of the Commissioners, as to patients confined in an institution for lunatics, and any one

(a) A general direction to this effect, applicable to every institution for lunatics unless there is no private patient therein, was given by the Commissioners by Circular Letter, dated 14th May, 1890.

of the visitors of a licensed house, as to patients confined in such house, may at any time give an order in writing under his hand for the admission to any patient of any relation or friend, or of any medical or other person whom any relation or friend desires to be admitted to him. The order of admission may be either for a single admission or for an admission for a limited number of times, or for admission generally at all reasonable times, and with or without any restriction as to the presence of an attendant or otherwise. If the manager refuses, prevents, or obstructs the admission to any patient of any person producing an order of admission he is liable to a penalty not exceeding 20*l.* for every offence (section 47).

Introduct.

CHAP. IV.

16. Diet of Paupers.] The visiting Commissioners may determine and regulate the diet of the pauper patients in any hospital or licensed house. And, subject to any direction given by the visiting Commissioners, the visitors of a licensed house have the like power as regards that house (section 52).

Diet of
paupers in
hospitals and
licensed
houses.

17. Escape and Recapture.] If any person detained under the Act as a lunatic in an institution for lunatics escapes he may, without a fresh order and certificate or certificates, be retaken at any time within fourteen days after his escape by the manager or any officer or servant of the institution, or by any one authorised in writing by such manager (section 85).

Recapture
in England
and Wales.

If any person detained as a lunatic under lawful authority in England or Wales escapes into Scotland or Ireland, notice of the escape must as soon as practicable be given to the Commissioners, and they may by writing under their seal authorise an application to be made by such person as they think fit to any justice having jurisdiction in the place where the lunatic was so detained for a warrant authorising such person to retake the lunatic and bring him back to such place. Such warrant when granted is in Scotland or Ireland, as well as in England or Wales, sufficient *primâ facie* evidence that the person stated therein to have escaped was so detained as a lunatic under lawful authority, and of the fact of his escape, and is sufficient authority for a sheriff in Scotland, or for any justice in Ireland, to countersign it. And when so countersigned the warrant may be executed in Scotland or Ireland, as the case may be, by retaking the lunatic and bringing him from thence for the

Recapture in
Scotland and
Ireland.

Introduct. purpose of restoring him to the custody from which he escaped (section 86). The warrant will not, however, authorise the
CHAP. IV. retaking of the lunatic after the expiration of fourteen days from his escape (section 89).

**Notices of
escape and
recapture.**

The clerk of every asylum and the resident licensee of every licensed house must within two clear days after the escape or recapture of a patient send written notice thereof to the Commissioners, and also in the case of a lunatic so found to the Chancery Visitors. And in the case of a licensed house within the jurisdiction of any visitors, the like notice must, within the like time, also be sent by the resident licensee of the house to the visitors (Commissioners' Rules, 26th June, 1895, R. 23 (1), (2)).

Notice of escape must be in the Form 16 in the Schedule to the Rules.

Notice of recapture must be in the Form 17 in the Schedule to the Rules.

**Penalty for
conniving at
escape.**

If any manager, officer, or servant of an institution for lunatics wilfully permits or assists or connives at the escape or attempted escape of a patient, or secretes a patient, he is liable to a penalty not exceeding 20*l.* nor less than 2*l.* for every offence (section 323).

**Leave of
absence from
asylum.**

18. *Absence on Trial or for Health.* Any two visitors of an asylum, with the advice in writing of the medical officer, may permit a patient to be absent from the asylum on trial so long as they think fit (section 55 (1)). The application to the visitors for leave of absence on trial must be accompanied by a recommendation from the medical officer (Commissioners' Rules, 26th June, 1895, R. 21 (2)). And the visitors may make an allowance to a pauper lunatic absent from the asylum on trial, not exceeding the charge in the asylum, and that allowance and no more must be paid for him as if he were in the asylum (section 55 (2)). If a patient allowed to be absent from the asylum on trial for any period does not return at the expiration of his leave, and a medical certificate that his detention as a lunatic is no longer necessary is not sent to the visitors, he may be retaken at any time within fourteen days after the expiration of his leave, as if he had escaped (section 55 (8)).

Short leave.

The regulations of the asylum may also provide for the absence of a patient from the asylum by permission of the manager for a period not exceeding four days (section 275 (5)).

With the consent of a Commissioner, or in case of a hospital that of two members of the managing committee, or in the case of a house licensed by justices that of two of the visitors, the manager of any hospital or licensed house may—

- (a.) Send or take, under proper control, any private patient or several to any specified place [or to travel in England (Act of 1891, s. 9 (1))] for the benefit of his or their health for such period as may be thought fit ; or
- (b.) Permit any private patient to be absent upon trial for such period as may be thought fit (section 55 (3), (4)).

The application to the Commissioner or visitors for his or their consent must be accompanied by a recommendation from the medical officer of the hospital or house (Commissioners' Rules, 26th June, 1895, R. 21 (2)). And any such consent may be renewed and the place when required to be specified may be varied (section 55 (4)). Before such consent is given, the approval in writing of the person on whose petition the reception order was made, or by whom the last payment was made on account of the patient, must be produced to the Commissioner, or to the members of the managing committee, or to the visitors whose consent is required, unless he or they, on cause being shown, dispense with the production of it (section 55 (5)). The application should state whether the "leave" is required for the purpose of giving the patient a trial or for the purpose of providing a temporary change under proper control. In the latter case the proposed residence must, and in the former case, should, be given.

If a private patient allowed to be absent on trial from a hospital or licensed house for any period does not return at the expiration of such period, and a medical certificate that his detention as a lunatic is no longer necessary is not sent to the manager of the hospital or house, he may be retaken at any time within fourteen days after the expiration of such period as if he had escaped (section 55 (8)).

The medical officer of a hospital or licensed house may also, of his own authority, permit any private patient to be absent for not more than forty-eight hours (section 55 (7)).

As regards pauper patients in any hospital or licensed house it is provided that a Commissioner, or in the case of a hospital any two members of the managing committee, or in the case of a house licensed by justices, any two of the visitors may, of their

Introductions.

CHAP. IV.

Leave of absence from hospital or licensed house (private patient).

Application for consent.

Overstaying leave.

Leave of absence from hospital or licensed house (pauper patient).

- Introduct.** own authority, permit a pauper patient to be absent on trial for such period as may be thought proper, and may make or order an allowance to be made to the pauper, not exceeding the charge for him in the hospital or house, which is to be payable as if he were in the hospital or house, but must be paid over to him or for his benefit as the Commissioner or such two visitors may direct (section 55 (6) and Act of 1891, s. 9 (2)).
- CHAP. IV.**
- Allowance for maintenance.** If any pauper patient allowed to be absent on trial from a hospital or licensed house for any period does not return at the expiration of such period, and a medical certificate that his detention as a lunatic is no longer necessary is not sent to the manager of such hospital or house, he may be retaken at any time within fourteen days after the expiration of such period as if he had escaped (section 55 (8)).
- Overstaying leave.** The medical officer of any hospital or licensed house may, of his own authority, permit any pauper patient to be absent for not more than forty-eight hours (section 55 (7)).
- Short leave.**
- Boarding-out by visitors of asylum.** **19. *Boarding out Pauper Lunatics.*** On an application by any relative or friend the visiting committee of an asylum may order any pauper patient to be delivered over to the applicant if they are satisfied that the application has been approved by the guardians of the union or parish to which the lunatic is chargeable or by the local authority liable for his maintenance, and if the proposed residence is outside the limits of such union or parish or the area subject to such local authority, then also by a justice having jurisdiction in the place where the relative or friend resides. When any such order is made, such guardians or local authority must pay to the person to whom the lunatic is delivered such allowance for the maintenance of the lunatic, not exceeding the expenses which would be incurred on his account if he were in the asylum, as the guardians or local authority on the recommendation of the visiting committee think proper. And for the purposes of the subvention payable by the county council to the guardians under the Local Government Act the lunatic is to be deemed to be maintained in the asylum (section 57).
- Allowance for maintenance.**
- Four shilling grant.**
- Order for return.** Any two members of the visiting committee may, at any time, if they think fit, order the lunatic to be removed from the custody of the relative or friend to whom he has been so delivered, back again into the asylum (section 63).

20. Removal of Private Patients.] Any Commissioner may, **Introduct.**
by order, direct the removal of a private patient from any
institution for lunatics in which he may be to any other institu- **CHAP. IV.**
tion for lunatics (section 59 (1), and Order in Council, 9th March, **Transfer by**
1914, cited under section 150). **order of Com-**
missioners.

And any person having authority to discharge a private **Transfer by**
patient from an institution for lunatics may, with the previous **private order.**
consent in writing of a Commissioner, by order in writing direct
the removal of the patient to any other institution for lunatics
or to the charge of any person named in the order (section 58).
And when application is made to the Commissioners for their
consent to the transfer of a private patient from one institution
for lunatics to another, the medical officer of the institution
from which the patient is to be removed must furnish the
Commissioners with a report as to the patient's mental and
bodily condition and fitness for transfer (Commissioners'
Rules, 26th June, 1895, R. 21 (1)).

The order for removal and the consent of the Commissioner **Duplicate**
thereto where required must be in duplicate. One duplicate **documents.**
must be delivered to the manager of the institution for lunatics
from which the lunatic is removed and the other to the manager
of the institution for lunatics into which or the person into
whose care the lunatic is removed. And every such order,
with the consent of a Commissioner when necessary, is
sufficient authority for the removal and reception of the
lunatic in accordance with the order (section 70 (1), (2),
and Order in Council, 9th March, 1914, cited under section
150).

The manager of the institution from which the lunatic is **Certified**
removed must deliver, free of expense, to the person executing **copies of**
the order for removal a copy of the reception order and its **reception**
accompanying documents, and such person must certify them **order, &c., to**
under his hand and deliver them to the manager of the institu- **accompany**
tion into which or the person into whose care the lunatic is **patient.**
removed (section 70 (3), (4)).

21. Removal of Pauper Lunatics.] Any Commissioner may **Transfer by**
by order direct the removal of a pauper lunatic from any **order of Com-**
institution for lunatics to any other such institution (section **missioners.**
59 (1), and Order in Council, 9th March, 1914, cited under
section 150).

Introduct. The authority liable for the maintenance of any pauper lunatic detained in a hospital or licensed house may make an order for his removal to the workhouse of the union to which he is chargeable, or if chargeable to a county or borough to the union from which he was sent to the hospital or licensed house, and may direct the mode of removal (section 61, and Act of 1891, s. 11). And upon production to the manager of a copy of the order he must forthwith remove the lunatic or suffer him to be removed (section 61).

CHAP. IV.
Transfer by
order of
maintaining
authority.

Transfer by
order of
justice of the
peace when
destitute.

Where a lunatic in a hospital or licensed house becomes a pauper, the manager of the hospital or house may, after having given notice to the authority liable for the maintenance of the lunatic under section 286 (1), of his intention so to do, apply to a justice having jurisdiction in the place where the hospital or house is situate for an order for the removal of the lunatic, and such justice may, if he think fit, make an order for the removal of the lunatic to an institution for lunatics to which pauper lunatics for whose maintenance the authority is liable may legally be sent and for the reception of the lunatic therein, and such institution must be named in the order, and the manager of the hospital or house must forthwith cause the lunatic to be removed to the institution named (Act of 1891, s. 19 (1)).

Transfer by
order of
visitors of
asylum.

Any two visitors of an asylum may order a pauper lunatic chargeable to any union or parish within any county or borough to which the asylum wholly or partly belongs, or chargeable to such county, or to any county for the reception of the pauper lunatics whereof in that asylum there is a subsisting contract, to be removed to that asylum from any other institution for lunatics (section 64).

And any two visitors of an asylum may order a pauper lunatic in the asylum to be removed to—

- (a.) An asylum belonging wholly or in part to the county within which the asylum from which the lunatic is removed is situate, or belonging wholly or in part to the county in some parish of which the lunatic has been adjudged to be settled ; or to
- (b.) A hospital or licensed house within any such county as aforesaid ; or to
- (c.) An institution for lunatics into which the lunatic can be removed under a subsisting contract ; or

- (d.) With the consent in writing of a Commissioner, to some other institution for lunatics (section 65, and Order in Council, 9th March, 1914, cited under section 150).

Introduct.
CHAP. IV.

Every order for removal, and the consent of a Commissioner thereto (when required), must be in duplicate. One duplicate must be delivered to the manager of the institution for lunatics from which the lunatic is removed, and the other to the manager of the institution for lunatics into which the lunatic is removed, and every such order, with the consent of a Commissioner (when required), is sufficient authority for the removal and reception of the lunatic in accordance with the order (section 70 (1), (2)).

Duplicate documents.

The visitors of an asylum making an order for the removal of a pauper lunatic may by the order require any relieving officer, or other officer of the union or parish, county, or borough to which the lunatic is chargeable, or may authorise any other person, to execute the same (section 66). And a pauper lunatic must not be removed under any order made by two visitors without a medical certificate signed by the medical officer of the institution for lunatics from which the patient is to be removed, certifying that he is in a fit condition of bodily health to be removed (section 67).

Execution of visitors' order.

A pauper lunatic must not be removed from any institution for lunatics to any other such institution into which he could not have been received under a reception order (section 69).

Restriction on removal.

The manager of the institution from which the lunatic is removed must deliver, free of expense, a copy of the reception order and accompanying documents to the person executing the order for removal, to be by him certified under his hand and delivered to the manager of the institution for lunatics to which the lunatic is removed (section 70 (3), (4)).

Certified copies of reception order, &c., to accompany patient.

The necessary expenses attending the removal of a pauper lunatic from any institution for lunatics must be borne by the guardians of the union or parish to which he is chargeable, or by the county or borough liable for his maintenance, and must be paid by such guardians or by the treasurer of such county or borough, as the case may be (section 297).

Expenses of removal.

Where an order for the removal of a lunatic becoming a pauper in a hospital or licensed house has been obtained by the manager, the costs of obtaining the order and of the removal of the lunatic must be repaid to the manager by the authority

Introduct. liable for the maintenance of the lunatic, and any justices having jurisdiction in the place where the hospital or house is has power to fix the amount of such costs, and order the authority to repay the same, and provision is made for enforcing such order (Act of 1891, s. 19 (2)).

CHAP. IV.

Entries in register of patients and register of removals, &c.

22. Entries and Notices on Removal.] Within two clear days after the removal of the patient, whether a private patient or a pauper, the clerk of the asylum, or the manager of the hospital or resident licensee of the licensed house from which the lunatic is removed, must make an entry thereof in the Civil Register, and also in the Register of Discharges and Transfers, according to the prescribed form (Commissioners' Rules, 31st October, 1906, R. 6). And within two clear days after the removal such clerk or manager must send a written notice thereof to the Commissioners, and, in the case of a lunatic so found, to the Chancery Visitors. And in the case of a removal from a licensed house within the jurisdiction of any visitors, the manager must send the like notice within the like time to such visitors (Commissioners' Rules, 26th June, 1895, R. 23 (1), (2)). The notices of removal must be in the Form 14 in the Schedule to the Rules (Rule 23 (3)). And any manager who omits to make such entries and give such notices upon removal is guilty of a misdemeanor (section 316).

Notices of removal.

Discharge by private order.

23. Discharge of Private Patients.] A private patient detained in an institution for lunatics must be discharged if the person on whose petition the reception order was made, by writing under his hand, so directs. But if that person is dead, or incapable by reason of insanity, absence from England, or otherwise, of signing an order for discharge, or if a patient, having been classified originally as a pauper, is afterwards classified as a private patient, the person who made the last payment on account of the patient, or the husband or wife, or if there is no husband or wife, or the husband or wife is incapable as aforesaid, then the father, or if there is no father, or he is incapable, then the mother, or if there is no mother, or she is incapable, then any one of the nearest of kin of the patient may give the direction for his discharge. And if there is no person qualified to direct the discharge of the patient, as above

mentioned, or no person able or willing to act, then the Commissioners may order his discharge (section 72). **Introduct.**

But a private patient is not to be so discharged if the medical officer of the institution certifies in writing that he is dangerous and unfit to be at large, together with the grounds on which the certificate is founded, unless two of the visitors of the asylum, or the Commissioners visiting the hospital or licensed house, or the visitors of the house, after the certificate has been produced, consent in writing to the patient's discharge (section 74). **CHAP. IV.**
Restrictions on discharge.

Two of the Commissioners, one of whom must be a medical and the other a legal Commissioner, may visit a private patient detained in any hospital or licensed house, and may, within seven days after their visit, if the patient appears to them to be detained without sufficient cause, make an order for his discharge (section 75). **Discharge by order of Commissioners.**

An order for the examination by two medical practitioners authorised by the Commissioners of any private patient in an institution for lunatics may be obtained from the Commissioners upon the application of any person, whether a relative or friend or not, who satisfies the Commissioners that it is proper for them to grant such order; and on production to the Commissioners of the certificates of the medical practitioners so authorised, certifying that after two separate examinations, with at least seven days intervening between the first and second examination, they are of opinion that the patient may, without risk or injury to himself or the public, be discharged, the Commissioners may order the patient to be discharged at the expiration of ten days from the order (section 49). **Discharge on special medical examination.**

And when the Commissioners have made any order for the discharge of a private patient they must forthwith serve it upon the manager of the institution for lunatics in which the patient is detained, and give notice of the order to the person on whose petition the reception order was made or who made the last payment on account of the patient. And any such manager who has been duly served with the order, and detains the patient after the date of discharge appointed thereby, is guilty of a misdemeanor (section 76). **Service of Commissioners' orders of discharge.**

Any three visitors of an asylum may order the discharge of any private patient therefrom, whether he is recovered or not; and any two such visitors, with the advice in writing of the **Discharge by order of visitors of asylum.**

Introduc^t. medical officer, may order the discharge of any private patient therefrom (section 77).

CHAP. IV.

Discharge by
order of
visitors of
licensed
house.

The visitors of any house licensed by justices may make an order for the discharge therefrom of any private patient, not being a lunatic so found, if, after two visits by two of such visitors, one of whom must be a medical practitioner, it appears to the visitors that such patient is detained without sufficient cause (section 78 (1), (2), (7)). Every such order of discharge must be signed by the visitors by whom it is made (section 78 (8)). And the two previous visits must have been made by the same two visitors at an interval of not less than seven days, and seven days' notice of the second visit must have been given by them to the manager of the house, either by post or by an entry in the Patients' Book. And upon the notice being so given the manager must forthwith send by post a copy of the notice to the person upon whose petition the reception order was made or by whom the last payment was made on account of the patient (section 78 (3), (4)). And before making the order of discharge the visitors must, if he tenders himself for examination, examine the medical officer of the house as to his opinion respecting the fitness of the patient to be discharged ; and if after such examination an order of discharge is made, and the medical officer furnishes to the visitors a statement of reasons against the discharge, they must forthwith send the statement to the clerk to the visitors (section 78 (5), (6)).

Discharge by
order of
maintaining
authority.

24. Discharge of Pauper Patient.] The authority liable for the maintenance of any pauper lunatic detained in a hospital or licensed house may make an order for his discharge and may direct the mode of it, and upon production to the manager of the hospital or house of a copy of the order he must forthwith discharge the patient, or suffer him to be discharged (section 73). But the patient must not be discharged if the medical officer of the hospital or house certifies in writing that he is dangerous and unfit to be at large, together with the grounds on which the certificate is founded, unless the Commissioners visiting the hospital or house, or the visitors of the house, after the certificate has been produced, consent in writing to the patient's discharge (section 74).

Discharge by
order of Com-
missioners.

Two Commissioners, one of whom must be a medical and the other a legal Commissioner, may visit a pauper patient

detained in any hospital or licensed house, and may, within seven days after their visit, if the patient appears to them to be detained without sufficient cause, make an order for his discharge (section 75). And a pauper patient may be discharged from any institution for lunatics by order of the Commissioners on special medical examination in the same way as a private patient (section 49).

Introduct.

CHAP. IV.

The Commissioners must forthwith serve the order upon the manager of the hospital or house, and give notice of the order to the authority liable for his maintenance. And if the manager after having been duly served with the order detains the patient after the date of discharge appointed thereby he is guilty of a misdemeanor (section 76).

Service of
Commis-
sioners' orders
of discharge.

Two of the visitors of any house licensed by justices, one of whom must be a medical practitioner, may, if after two visits made by the same visitors at an interval of not less than seven days, it appears to them that any pauper patient is detained without sufficient cause, make an order for his discharge which must be signed by the visitors making it (section 78 (1), (2), (3), (8)). Seven days' notice of the second visit must be given to the manager of the house either by post or by an entry in the Patients' Book, and the manager must forthwith send a copy of the notice to the authority liable for the maintenance of the patient, and also to the clerk of the visitors of the house (section 78 (4)). And before making an order for discharge the visitors must examine the medical officer of the house as to his opinion respecting the fitness of the patient to be discharged, if he tenders himself for examination. And if after such examination an order for discharge is made, and the medical officer furnishes to the visitors a statement of his reasons against his discharge, they must forthwith send the statement to the clerk of the visitors (section 78 (5), (6)).

Discharge by
order of
visitors of
licensed
house.

Any three visitors of an asylum may order the discharge of a pauper patient therefrom whether he is recovered or not, and any two visitors, with the advice in writing of the medical officer, may discharge any pauper patient from the asylum (section 77). When a pauper lunatic is discharged from an institution for lunatics and the medical officer is of opinion that the lunatic is not recovered and is a proper person to be kept in a workhouse as a lunatic, the medical officer must certify such opinion, and the lunatic may thereupon be received and detained against

Discharge by
order of
visitors of
asylum.

Introduct. his will in the workhouse without further order if the medical officer of the workhouse certifies in writing that the accommodation in the workhouse is sufficient for the lunatic's proper care and treatment, separate from the inmates of the workhouse who are not lunatics, or that the lunatic's condition is such that it is not necessary for his convenience or that of the other inmates that he should be kept separate (section 25).

CHAP. IV.

When the visitors of an asylum order a pauper patient to be discharged therefrom (except as hereinafter mentioned upon the application of a relative or friend) they may, when they think fit, send by post or otherwise to a relieving officer of the union or parish to which the lunatic is chargeable, or to the clerk of the county council or town clerk of the borough liable for his maintenance, a notice in writing, signed by the clerk of the asylum, stating the intention of the visitors to discharge the lunatic (section 80 (1)). And upon receipt of such notice, the relieving officer or clerk to whom it is given must cause the lunatic upon his discharge to be forthwith removed to the workhouse of the union or parish to which he is chargeable, or if he is chargeable to a county or borough then to the workhouse of the union or parish from which he was sent to the asylum (section 80 (2)).

Upon an application made to the visiting committee of an asylum by any relative or friend of any pauper patient that he may be delivered over to the care of the applicant, any two of the visitors may, if they think fit, discharge the lunatic upon the undertaking of the applicant that the lunatic shall be no longer chargeable, and shall be properly taken care of (section 79).

Expenses of discharge.

The necessary expenses attending the discharge of any pauper lunatic from an institution for lunatics must be borne by the union or parish to which he is chargeable or by the county council or town council liable for his maintenance, and must be paid by the guardians or by the treasurer of such council (section 297).

Entries in register of patients and register of discharges, &c.

25. Entries and Notices on Discharge.] Within two clear days after the discharge of any patient, whether a private patient or a pauper, the clerk of the asylum or manager of the hospital or licensed house, as the case may be, must make an entry thereof in the Civil Register, and also in the Register of Discharges and Transfers, according to the prescribed

form (Commissioners' Rules, 31st October, 1906, R. 6). And within two clear days after such discharge such clerk or manager, as the case may be, must send a written notice thereof to the Commissioners, and also in the case of a lunatic so found to the Chancery Visitors ; and in the case of a licensed house within the jurisdiction of any visitors the like notice within the like time must also be sent by the manager of the house to the visitors (Commissioners' Rules, 26th June, 1895, R. 23 (1), (2)). The notices of discharge must be in the Form 15 in the Schedule to the Rules (Rule 23 (3)). And if the manager of any hospital or licensed house omits to make the prescribed entries and give the prescribed notices upon the discharge of a patient he is guilty of a misdemeanor (section 316).

Introduct.

CHAP. IV.

Notices of discharge.

Penalty for default.

26. Recovery.] The manager of every hospital and licensed house must forthwith upon the recovery of a patient send notice thereof in the case of a private patient to the person on whose petition the reception order was made or by whom the last payment was made on account of the patient, and in the case of a pauper to the guardians of his union or parish, or if a county or borough is liable for his maintenance, to the clerk of the county council or town clerk of the borough (section 83 (1)). The notice of recovery must state that unless the patient is removed within seven days from the date of the notice he will be discharged (section 83 (2)). And in case he is not so removed he must be discharged as soon as possible after the expiration of the seven days (section 83 (3)).

Notice of recovery.

Discharge in default of removal.

27. Death.] In the case of the death of a patient in an asylum, the notice (a) as set forth in a Rule dated 4th December, 1912 (Commissioners' Rules), *post*, p. 562, shall be prepared and signed by the clerk, and the statement accompanying the notice shall be signed by the medical officer—and in the case of a death in other institutions for lunatics, both the notice and statement shall be signed by the medical officer and forwarded within 48 hours to the persons specified in Rule 27 of the Commissioners' Rules, 26th June, 1895, *post*, p. 536.

Medical statement as to death.

An entry of the death of a patient shall be made by the

(a) This notice is quite independent of the duties of the manager of the institution under sections 10, 20, and 48 of the Births and Deaths Registration Act, 1874, 37 & 38 Vict. c. 88.

Introduct. various officials mentioned, in the civil register, register of deaths, and the medical journal in accordance with Rule 6 of **CHAP. IV.** the Commissioners' Rules, 31st October, 1906.

Within three days after the death the medical officer of the institution must enter in the Medical Case Book a copy of the statement, which is to be made out as above mentioned (Commissioners' Rules, 26th June, 1895, R. 27 (3)).

Penalty for default. The manager of any hospital or licensed house who omits to make the prescribed entries and give the prescribed notices upon the death of a patient is guilty of a misdemeanor (section 316).

Expenses of burial. The necessary expenses attending the burial of a pauper lunatic dying in any institution for lunatics must be borne by the guardians of the union or parish to which he is chargeable, or by the county council or town council liable for his maintenance, and must be paid by such guardians or by the treasurer of such council, as the case may be (section 297).

Order for search by secretary of Commissioners.

28. Search for Patient.] Any person may apply to a Commissioner to be informed whether any particular patient is confined in any institution for lunatics. And upon such application the Commissioner, if he thinks fit, may sign an order to the secretary of the Commissioners to search amongst the returns made to the Commissioners whether the person inquired after is or has been confined within the last twelve months. And if it appears that the person is or has been so confined the secretary must deliver to the applicant a statement in writing, specifying the situation of the institution in which the person appears to be or to have been confined, and also (so far as the secretary can ascertain from any register or return in his possession) the name of the manager of the institution, the date of the admission of the patient, and (in case of the patient's removal or discharge) the date of his removal or discharge (section 51 (1), (2)). The applicant must pay to the secretary of the Commissioners for making the search such sum not exceeding seven shillings as the Commissioners may fix (section 51 (4)).

Search fee.

Order for search by clerk to visitors of licensed houses.

The like application may also be made to any visitor as to any licensed house within his jurisdiction, and the visitor may thereupon make a like order on the clerk to the visitors to make a search and deliver a like statement to the applicant as to

any such licensed house (section 51 (3)). The applicant must pay to the clerk to the visitors for making the search such sum not exceeding seven shillings as the visitors may fix (section 51 (4)).

Introduct.
CHAP. IV.

29. Visitation of Asylums.] Every asylum must be visited once a year at least by two or more Commissioners, one of whom must be a medical practitioner and the other a barrister (section 187 (1)). And any one or more of the Commissioners may at any time visit any asylum (section 187 (2)).

Visitation
by Commis-
sioners.

The visiting Commissioners or Commissioner must on every such visit make inquiries as to—

(a.) Whether the law has been carried out as to—

(i.) The construction of the building.

(ii.) Visitation.

(iii.) Management.

(iv.) Regularity of admission and discharge of patients.

(b.) Whether Divine service is performed.

(c.) Whether any system of coercion is practised, and its result.

(d.) Classification of patients and number of attendants on each class.

(e.) Occupations and amusements of patients, and their effects.

(f.) Bodily and mental condition of pauper patients on admission.

(g.) Dietary of pauper patients.

(h.) Such other matters as the visiting Commissioners think fit (section 187 (1)).

At each visit all instruments and mechanical appliances which may have been employed in the application of bodily restraint to a lunatic since the last preceding visit of Commissioners or a Commissioner must if desired be produced to the visiting Commissioners or Commissioner by the superintendent (Regulation, 9th April, 1890).

Production of
mechanical
means of
restraint.

And if any male person has been employed in the personal custody or restraint of any female patient since the last visit of the visiting Commissioner or Commissioners, the superintendent must report the fact to the visiting Commissioner or Commissioners, and the circumstances which in his judgment rendered such employment necessary (section 53).

Male in care
of female,

Introduct. Within two clear days after each visit the clerk of the asylum must send to the office of the Commissioners copies of all entries and remarks made by the visiting Commissioners or Commissioner at such visit in any of the books of the institution (Commissioners' Rules, 26th June, 1895, R. 24 (1)).

CHAP. IV.

Copies of entries in asylum books.

Visitation by visitors.

In addition to the visits of the Commissioners, at least two of the visiting committee must together, once at least in every two months, inspect every part of the asylum and see every patient therein, so as to give every one, as far as possible, full opportunity of complaint. And they must examine the order and certificate or certificates for the admission of every lunatic admitted since the last visitation and the general books kept in the asylum. And they must enter in the Visitors' Book any remarks they may think proper in regard to the condition and management of the asylum and the lunatics therein, and sign the book upon every visit (section 188).

Annual report by visiting committee.

Moreover, the visiting committee of every asylum must in every year lay before each local authority to which the asylum belongs at their quarterly meeting in November, or at such other time as the local authority appoints, a report in writing of the state and condition of the asylum, and as to its sufficiency to provide the necessary accommodation, and as to its management and the conduct of the officers and servants and the care of the patients therein, and the committee may in the report make such remarks in relation to any matters connected with the asylum as they may think fit (section 190). The clerk to the visiting committee must send a copy of the report to the Commissioners within twenty-one days after the report itself has been laid before the local authority or authorities as above described (Commissioners' Rules, 26th June, 1895, R. 30).

Copy report for Commissioners.

Visitation of borough lunatics received under contract.

In cases where there is a contract for the reception of the pauper lunatics of a borough in a county asylum, and during the continuance of the contract, not less than two of the visiting committee of the borough appointed for the purpose must together, at least once in every six months, visit the asylum and see and examine the lunatics received under the contract, and report the result of their visit to the council of the borough (section 189 (1)). On every such visit the visitors may, if they think fit, be accompanied by a medical practitioner who is not an officer of the asylum, and they may order payment to him for his services of such sum as they think fit, which must be

paid to him by the treasurer of the borough upon production of the order (section 189 (2)). The reports made on such visits by the visitors must be entered upon the records of the borough, and be open to the inspection of the Commissioners, who may, if they think fit, require the town clerk to send them a copy of any such report (section 189 (3)).

Introduct.
CHAP. IV.

A medical practitioner appointed by the guardians of a union, and also the guardians themselves must be permitted, whenever they see fit, between 8 A.M. and 6 P.M., to visit and examine any pauper lunatic chargeable to the union confined in any asylum, unless the medical superintendent or resident medical officer delivers to the person or persons intending to make the visit a statement, signed by him, certifying that for the reasons set forth in the statement the visit would be injurious to the lunatic. And the medical superintendent, or resident medical officer, must forthwith enter in the Medical Journal the reasons set forth in the statement, and sign the entry (section 201).

Visits to
paupers by
guardians or
their medical
appointee.

30. Visitation of Hospitals and Licensed Houses.] Every hospital must be visited once a year by not less than two Commissioners, one of whom must be a medical practitioner and the other a barrister, and may be visited at any time by day or night by any one or more of the Commissioners (section 191 (1), (4)). The visits of the Commissioners must be made without previous notice, and on such day or days and at such hours, and for such length of time as the visiting Commissioners or Commissioner may, subject to the direction of the Commissioners as a board, think fit (section 191 (5), (6)).

Visitation
by Commis-
sioners.

Every licensed house within the immediate jurisdiction of the Commissioners must be visited six times a year, viz.,

(a.) Four times by not less than two Commissioners, one of whom must be a medical practitioner and the other a barrister :

(b.) Twice by one or more of the Commissioners (section 191 (2)).

And every licensed house not within the immediate jurisdiction of the Commissioners must be visited twice a year by not less than two Commissioners, of whom one must be a medical practitioner and the other a barrister (section 191 (3)). But the Lord Chancellor, on a representation by the Commissioners

Introduct. setting forth the expediency of the alteration, may direct that during a specified period or until the direction is revoked, the Commissioners shall not be required to visit a house licensed by themselves and not receiving pauper patients more than twice a year, or to visit a house licensed by justices more than once a year (section 191 (7)).

CHAP. IV.

And every licensed house may also, in addition to the visits above mentioned, be visited at any time, by day or night, by any one or more of the Commissioners.

The visits of the Commissioners must be made without previous notice, and may be on such day or days, and at such hours, and for such length of time as the visiting Commissioners or Commissioner may, subject to any direction of the Commissioners, think fit (section 191 (5), (6)).

**Visitation
by visitors of
licensed
houses.**

In addition to the visits of the Commissioners, every licensed house within the jurisdiction of visitors appointed by justices must be visited four times a year by not less than two of the visitors, one of whom must be a medical practitioner, and twice a year by one or more of the visitors. Every such licensed house may also be visited at any time, by day or night, by one or more of the visitors (section 193). No manager or person interested or employed about or connected with any house to be visited is to have notice of any intended visit by any of the visitors (section 181 (3)).

**Inspections
and inquiries.**

At every visit to a hospital or licensed house which the visiting Commissioners or visitors are bound to make under the Act, they may make the following inspections and inquiries, which may also be made at any other visit by any of the visiting Commissioners or visitors (section 194), viz. :—

- (a.) Inspect every part of the building where lunatics are received, and every building communicating therewith or detached therefrom, but not separated by ground belonging to any other person, and every part of the ground and appurtenances, held, used, or occupied therewith :
- (b.) See every patient and inquire whether any patient is under restraint, and why :
- (c.) Inspect the order and certificate or certificates for every patient received since the last visit :
- (d.) Consider the observations made in the Visitors' Book :

(e.) Enter in the Visitors' Book a minute of the condition of the house, of the patients therein, and the number of patients under restraint, with the reasons thereof : Introduct.
CHAP. IV.

(f.) Inquire—

When Divine service is performed, and to what number of patients, and its effect :

What occupations and amusements are provided for the patients, and the results :

How the patients are classified :

As to the condition of the pauper patients when first admitted :

As to the diet of the pauper patients :

As to the moneys paid to the manager on account of any lunatic under his care :

As to such other matters as may in their opinion require investigation (section 194 (1)).

The result of the above inquiries and inspections must be entered in the Visitors' Book, with such observations as may be thought proper (section 194 (2)). And each visiting Commissioner or visitor may at any visit enter in the Patients' Book such observations as he thinks fit as to the state of mind or body of any patient, and any irregularity which exists in any order or certificates, and also whether the suggestions (if any) made at any previous visit have been attended to, and any observations which may be thought proper (section 194 (3)). Entries in
books.

In addition to the foregoing inspections and inquiries the visiting Commissioners at their first visit to any house licensed by justices after the grant or renewal of the license must examine the license, and sign it if it is in conformity with the Act, or if not must enter in the Visitors' Book in what respect it is informal (section 192). Examination
of license.

Moreover, every Commissioner visiting a house licensed by justices must carefully consider and give special attention to the state of mind of any patient, as to the propriety of whose detention there is a doubt, or as to whose sanity attention is specially called, and must, if the state of mind of such patient is considered doubtful and the propriety of his detention requires further consideration, make and sign a minute thereof in the Patients' Book (section 197 (1)). Doubtful
patients.

Finally, every visiting Commissioner and visitor must, at every such visit, on the production by the manager of the books Signing of
books.

Introduct. which he is required to produce as hereinafter mentioned, sign the said books as having been produced to him (section 196 (2)).

CHAP. IV.

Duties of manager on visitation.

The manager of every hospital or licensed house must show to each visiting Commissioner and visitor, at every visit, every part of such hospital or house, and every patient detained therein (section 195 (1)). If required, every voluntary boarder must also be produced to the Commissioners and visitors respectively on their respective visits (section 229 (4)). And every manager who conceals, or attempts to conceal, or refuses or wilfully neglects to show any part of the building, or any building communicating therewith or detached therefrom, but not separated by ground belonging to any other person, or any part of the ground held, used, or occupied therewith, or any person detained or being therein, from any one or more of the visiting Commissioners or visitors, or who does not give full and true answers to the best of his knowledge to all questions which any visiting Commissioner or visitor asks in the execution of his office is guilty of a misdemeanor (section 195).

Books, &c., to be laid before visitors.

The manager of every hospital or licensed house may be called upon to lay before the visiting Commissioners or Commissioner, or the visitors or visitor, at each visit—

- (a.) A list of all the patients then in the hospital or house (distinguishing pauper patients from other patients and males from females and specifying such as are deemed curable) :
- (b.) The several books required by the Act and Rules to be kept by the manager and by the medical officer of a hospital or licensed house :
- (c.) All orders and certificates relating to patients admitted since the last visit :
- (d.) In the case of a licensed house, the license in force :
- (e.) All other orders, certificates, documents, and papers relating to any of the patients at any time received into the hospital or licensed house which may be required to be produced (section 196).

Mechanical means of restraint to be produced.

All instruments and mechanical appliances which may have been employed in the application of bodily restraint to a lunatic since the last preceding visit of Commissioners or a Commissioner must be produced to the visiting Commissioners or Commissioner at each visit by the superintendent, resident medical officer, or resident licensee (Regulation, 9th April, 1890).

If any male person has been employed in the personal custody or restraint of any female patient since the last visit of the visiting Commissioner or Commissioners, the manager must report the fact to the visiting Commissioner or Commissioners, and the circumstances which, in the judgment of the manager, rendered such employment necessary (section 53).

Introduct.

CHAP. IV.

Employment of males in care of females to be reported.

Any person who obstructs any Commissioner or visitor in the exercise of the powers conferred by the Act or by any other Act renders himself liable to a penalty not exceeding 50*l.* for each offence, and is also guilty of a misdemeanor (section 321 (1)).

Penalty for obstruction.

Within two clear days after any minute as to any doubtful patient in a house licensed by justices has been made in the Patients' Book by any visiting Commissioner, as above described, a copy of it must be sent by the manager to the clerk to the visitors, and the clerk must forthwith communicate it to the visitors, or some two of them (of whom one must be a medical practitioner), and the visitors must thereupon immediately visit the patient and act as they think fit (section 197 (2)). And every manager who omits to send a copy of a minute, as above stated, and every clerk who neglects to communicate the same to two visitors, as above described, is guilty of a misdemeanor (section 197 (3)).

Copies of minutes as to doubtful patients.

Within two clear days after each visit of one or more of the Commissioners to any hospital or licensed house the manager must send to the office of the Commissioners, and also, in the case of a house licensed by justices, to the clerk of the visitors, copies of all entries or remarks made by any visiting Commissioners or Commissioner at such visit in any of the books of the hospital or licensed house (Commissioners' Rules, 26th June, 1895, R. 24). And within two clear days after each visit by any visitor the resident licensee must send to the office of the Commissioners and to the clerk to such visitors a true and perfect copy of all entries and remarks made by such visitors at such visit in any of the books of the hospital or house (Commissioners' Rules, 26th June, 1895, R. 24 (2)).

Copies of entries on visitation.

A medical practitioner appointed by the guardians of a union, and also the guardians themselves must be permitted, whenever they see fit, between 8 A.M. and 6 P.M., to visit and examine any pauper lunatic chargeable to the union confined in any hospital or licensed house, unless the superintendent,

Visits to paupers by guardians or their medical appointee.

Introduct. resident medical practitioner, or medical attendant, delivers to the person or persons intending to make the visit a statement signed by him, certifying that for the reasons set forth in the statement the visit would be injurious to the lunatic. And the superintendent, resident medical practitioner, or medical attendant, must forthwith enter in the Medical Journal the reasons set forth in the statement, and sign the entry (section 201).

CHAP. IV.

Special visits by order of Commissioners.

31. *Special Visits.*] If, for reasons to be entered on their minutes, the Commissioners think any case calls for immediate investigation, they may order any competent person or persons to visit and report upon the mental and bodily condition of any lunatic or alleged lunatic in any institution for lunatics, and to inquire into and report upon any matters into which the Commissioners are authorised to inquire, and may allow any such person a reasonable sum for his services and expenses (section 204 (1), (3)). Every such person has, for the special purposes mentioned in the order, all the powers of a Commissioner (section 204 (2)). And any person who wilfully obstructs such person in the execution of the order of the Commissioners renders himself liable to a penalty not exceeding 20*l.* for each offence, and that without prejudice to any proceedings, and in addition to any punishment to which he would otherwise be subject (section 321 (2)).

B. SINGLE PATIENTS.

- | | |
|-----------------------------------------------------------------|-------------------------------------|
| 1. <i>Act to be complied with.</i> | 10. <i>Letters of Patients.</i> |
| 2. <i>Power to take more than one patient in "Single Care."</i> | 11. <i>Visits of Friends.</i> |
| 3. <i>Notices of Admission.</i> | 12. <i>Escape and Recapture.</i> |
| 4. <i>Medical Attendance.</i> | 13. <i>Change of Residence.</i> |
| 5. <i>Entries in Medical Journal.</i> | 14. <i>Removal to other Charge.</i> |
| 6. <i>Report at end of First Month.</i> | 15. <i>Discharge.</i> |
| 7. <i>Medical Reports.</i> | 16. <i>Recovery.</i> |
| 8. <i>Mechanical Restraint.</i> | 17. <i>Death.</i> |
| 9. <i>Ill-treatment.</i> | 18. <i>Search for Patient.</i> |
| | 19. <i>Visitation.</i> |

Disobedience of Acts a misdemeanor.

1. *Act to be Complied with.*] Every person who, except under the provisions of the Acts, for payment takes charge of, receives

to board and lodge, or detains a lunatic or an alleged lunatic in an unlicensed house is guilty of a misdemeanor, and also renders himself liable to a penalty not exceeding 50*l*. And, except under the provisions of the Act, it is a misdemeanor to receive or detain two or more lunatics in any house not being an institution for lunatics or a workhouse (section 315).

Introduct.

CHAP. IV.

2. Power to take more than one patient in Single Care.] In the case of any person having charge of a single patient, if the Commissioners are satisfied that it is desirable, under special circumstances and for the interest of the patient, that another patient or more than one other should reside in the same house, that person may, with the approval of the Commissioners, receive such other patient or patients on the same terms and conditions in all respects as if each of them were a single patient (section 46).

Patients in
single care not
restricted
to one

3. Notices of Admission.] Every person who has charge of a single patient must, within one clear day after the patient's admission, send to the Commissioners a notice of admission, and also a copy of the reception order and medical certificate or certificates upon which the same was made, and in the case of reception orders upon petition, a copy of the petition and statement of particulars (Commissioners' Rules, 26th June, 1895, R. 8 (7)). The notice of admission may be in the Form 8 in the Schedule to the Rules. He must also, with the notice of admission, send a statement of his own Christian and surname and occupation, and the Christian and surname and occupation of the occupier of the house in which the patient is received (Rule 8 (7)).

Notice of
admission.

Copy recep-
tion order
and other
documents.

He must also in every case, before the end of the seventh clear day after the patient's admission, send to the Commissioners a medical statement made and signed by the medical practitioner who visits the patient (Commissioners' Rules, 26th June, 1895, R. 8 (7)). This medical statement may be in the Form 10 in the Schedule to the Rules.

Medical
statement on
admission.

Every person having the charge of a single patient who omits to send to the Commissioners the documents and information above mentioned, upon the admission of the patient, is guilty of a misdemeanor, and also renders himself liable to a penalty not exceeding 50*l*. (section 316).

Penalty for
default.

Introduct. **4. Medical Attendance.]** A medical practitioner who has
 CHAP. IV. signed a certificate upon which the reception order of a private
 Disqualifica- patient has been made, may not be the regular professional
 tion for being attendant of the patient while detained under the order (section
 medical 43 (1)).
 attendant.

Number of visits. The Commissioners may by order direct how often any single
 patient (not being a lunatic so found) is to be visited by a
 medical practitioner. And until any such order is made every
 single patient (not being a lunatic so found) must be visited at
 least once in every two weeks by a medical practitioner not
 deriving and not having a partner, father, son or brother, who
 derives any profit from the charge of the patient. Any Com-
 missioner may direct that the medical attendant of a single
 patient (not being a lunatic so found) shall cease to act in that
 capacity, and that some other person shall be employed in his
 place. And if any person having charge of any single patient
 (not being a lunatic so found) fails to give effect to any direction
 of the Commissioners as to how often the patient is to be visited
 by a medical practitioner, or as to a change of the medical
 attendant of the patient, is guilty of a misdemeanor (section 44,
 and Order in Council, 9th March, 1914, cited under section 150).

Change of
 medical
 attendant.

Penalty for
 disobeying
 order of
 Commis-
 sioners.

Entries on
 admission.

5. Entries in Medical Journal.] A Medical Journal must be
 kept in every house where a single patient is detained (Com-
 missioners' Rules, 31st October, 1906, R. 1 (3)). The Medical
 Journal must be in the Form 4 in the Schedule to the Com-
 missioners' Rules, 26th June, 1895. As soon as possible after
 the admission of the patient his medical attendant must enter
 on the blank pages left at the beginning of the Medical Journal
 a sketch of the previous history of the case, and full particulars
 of the mental and bodily condition of the patient on admission,
 and sign the entry (Commissioners' Rules, 26th June, 1895,
 R. 16).

Entries on
 visits.

Such medical attendant must also at each visit enter in the
 Medical Journal the date of the visit, and full particulars of
 the mental and bodily condition of the patient, and a statement
 as to the condition of the house, and sign the entry (*Ibid.*).

If the Commissioners allow a single patient to be visited less
 often than once in every two weeks, and the patient is in charge
 of a medical practitioner, such practitioner must once at least
 in every two weeks enter in the Medical Journal, full particulars

of the mental and bodily condition of the patient, with the date of the entry, and sign the entry (*Ibid.*). Introduct.

All entries must be made in a manner so clear and distinct as to admit of being easily referred to and extracted whenever the Commissioners so require (Commissioners' Rules, 26th June, 1895, R. 34). CHAP. IV.
Making of
entries.

6. *Report at end of First Month after Reception.*] The medical attendant of every single patient (not being a lunatic so found by inquisition) must at the expiration of one (calendar) month after reception (except under an order of removal) make a report to the Commissioners as to the bodily and mental condition of the patient (section 39 (1), (Act of 1891, s. 8)). This report must be in the Form 13 in the Schedule to the Commissioners' Rules, 26th June, 1895, R. 9. Report at
end of first
month.

The Commissioners after receiving the report must either arrange for a visit to the patient as soon as convenient by one or more of the Commissioners; or if no Commissioner is available must cause a copy of the report to be sent to the medical visitor for the county or borough where the patient resides, or to some other competent person, and must direct him to visit the patient as soon as convenient (section 39 (5)). Visitation on
report.

The Commissioner or Commissioners or other person visiting the patient must report to the Commissioners whether his detention is or is not proper (section 39 (5)). A person directed by the Commissioners as above mentioned to visit a patient has for that purpose all the powers of a Commissioner, and the Commissioners may, with the consent of the Treasury, pay him such reasonable remuneration as they think fit out of the Parliamentary vote for their general expenses (section 39 (6)).

If within a month after the reception of the patient the house into which he is received is visited by one or more Commissioners, and the patient is there seen and examined by him or them, and the propriety of his detention reported on as above described, no special visit need necessarily be paid to the patient after receipt of the report at the end of the month (section 39 (8)). When special
visit unneces-
sary.

If the Commissioners in any case under the above provisions determine that the patient ought to be discharged they may make an order for his discharge (section 39 (9)). Discharge by
Commis-
sioners.

Introduct. **7. *Medical Reports.***] Every medical practitioner who visits a single patient, or under whose charge a single patient is, must every year on the 10th January, or within seven days from that time, report in writing to the Commissioners the state of health, mental and bodily, of the patient, with such other circumstances as he may deem necessary to communicate (Commissioners' Rules, 26th June, 1895, R. 17).

CHAP. IV.
Annual
medical
reports.

Special
medical
report.

And the Commissioners may, in addition to the annual reports above mentioned, at any time require from the medical attendant of a single patient a report in writing as to the patient, in such form and specifying such particulars as the Commissioners direct (section 45).

When not to
be applied.

8. *Mechanical Restraint.*] Mechanical means of bodily restraint must not be applied to any lunatic unless it is necessary for purposes of surgical or medical treatment, or to prevent him from injuring himself or others (section 40 (1)). "Mechanical means" of bodily restraint are and include all instruments and appliances whereby the movements of any of the limbs of a lunatic are restrained or impeded (section 40 (6) and Regulation, 25th June, 1913).

What are
mechanical
means.

Medical
certificate.

In every case where such restraint is applied a medical certificate must, as soon as it can be obtained, be signed by the medical attendant of the single patient, describing the mechanical means used, and stating the grounds upon which the certificate is founded (section 40 (2), (3)).

Register of
mechanical
restraint.

A full record of every case of restraint by mechanical means must be kept from day to day (section 40 (4)). For this purpose a Register of Mechanical Restraint must be kept in every house where a single patient is detained (Commissioners' Rules, 31st October, 1906, R. 1 (3)). The register must be in the Forms in the Schedule to the Rules of 26th June, 1895.

Copies for
Commis-
sioners.

Copies of the records and certificates as to the use of mechanical means of restraint must be sent to the Commissioners at the end of every quarter (section 40 (4)). In order to fulfil this requirement every person having charge of a single patient must at the end of every quarter send to the Commissioners a copy of every entry made in the Register of Mechanical Restraint during the quarter (Commissioners' Rules, 26th June, 1895, R. 18).

Any person wilfully acting in contravention of the provisions

of the Act as to the use of mechanical means of restraint is **Introduct.**
guilty of a misdemeanor (section 40 (7)).

CHAP. IV.

9. *Ill-treatment.*] Any person having charge of a lunatic, **Ill-treatment and wilful neglect.**
whether by reason of any contract, or of any tie of relationship or marriage, or otherwise, who ill-treats or wilfully neglects a patient is guilty of a misdemeanor, and on conviction on indictment is liable to fine or imprisonment, or both, at the discretion of the court, and on summary conviction is liable to a penalty not exceeding 20*l.* nor less than 2*l.* for each offence (section 321).

Any person having the care or charge of a female single **Carnal abuse of female.**
patient or any attendant of a female single patient who carnally knows or attempts to have carnal knowledge of her is guilty of a misdemeanor, and on conviction on indictment is liable to be imprisoned with or without hard labour for not more than two years. And the consent of the patient is no defence (section 324).

10. *Letters of Patient.*] Every person having charge of a **Letters to officials.**
single patient must forward unopened all letters written by the patient, and addressed to the Lord Chancellor, or any Judge in Lunacy, or to a Secretary of State, or to the Commissioners, or any of them, or to the person who signed the reception order for the admission of the patient, or on whose petition such order was made, or to the Chancery Visitors, or any of them, under a penalty not exceeding 20*l.* for default in doing so. And he **Private letters.**
may also at his discretion forward to its address any other letter written by the patient (section 41), he is not, however, at liberty to send letters addressed to any one person, to any other person, unless, on request, to a lunacy or other official.

11. *Visits of Friends.*] Any one of the Commissioners may at **Visits of friends by order of Commissioners.**
any time give an order in writing under his hand, for the admission to any single patient of any relation or friend, or of any medical or other person whom any relation or friend desires to be admitted to him. The order may be for a single admission or for a limited number of times, or generally for admission at all reasonable times, and with or without any restriction as to the presence of an attendant or otherwise. And if the person in charge refuses, prevents, or obstructs the admission of the person producing the order, he renders himself liable to a penalty for each offence of not exceeding 20*l.* (section 47).

Introduct. **12. *Escape and Recapture.***] If any single patient escapes he may, without a fresh order and certificates, be retaken at any time within fourteen days after his escape, by the person in whose charge he was, or by any one authorised in writing by such person (section 85).

CHAP. IV.
Recapture in
England and
Wales.

Recapture in
Scotland or
Ireland.

Notices of
escape or
recapture.

As to recapture on escape into Scotland or Ireland, see sections 86 and 89.

The person having charge of any single patient must, within two clear days after the escape or recapture of the patient, send a written notice thereof to the Commissioners, and also in the case of a lunatic so found to the Chancery Visitors. The notices must be in the Forms 16 and 17 in the Schedule to the Rules (Commissioners' Rules, 26th June, 1895, R. 23).

Change of
residence.

13. *Change of Residence.*] Any person having charge of a single patient may change his residence and remove the patient to any new residence in England or Wales. But he must, seven clear days before the change, give notice in writing thereof, and of the place of the new residence, both to the Commissioners and to the person on whose petition the reception order was made, or by whom the last payment on account of the patient was made (section 56 (1), (2)). Notice of change of address of a patient, so found by inquisition, should also be sent to the Lord Chancellor's Visitors, Royal Courts of Justice, Strand, some few days before a change is effected.

Absence for
health or
on trial.

Any person having charge of a single patient may, with the previous consent of a Commissioner, take or send the patient, under proper control, to any specified place or places, for any definite time, for the benefit of his health (section 56 (3)) ; or may permit the patient to be absent on trial for such period as may be thought fit (Act of 1891, s. 10). But, before any consent by a Commissioner is given, the approval in writing of the person on whose petition the reception order was made, or by whom the last payment on account of the patient was made, must be produced to the Commissioner, unless on cause shown he dispenses with it (section 56 (4)). And when the application is made to the Commissioner for his consent, it must also be accompanied by a recommendation from the medical attendant of the patient (Commissioners' Rules, 26th June, 1895, R. 21 (2)).

Necessary
consents.

The application for leave of absence should definitely state whether it is required for the purpose of giving the patient a

trial or only to provide a temporary change for the benefit of the patient's health. Introduct.

CHAP. IV.

14. Removal to Other Charge.] A person having authority to order the discharge of any single patient may, with the previous consent in writing of a Commissioner, by order in writing direct the removal of the patient to any institution for lunatics, or to the charge of any person named in the order (section 58 (1)). And any Commissioner may, at any time, by order, direct the removal of a lunatic from the charge of any person under whose care he is as a single patient, to the charge of another person, or to any institution for lunatics (section 59 (3), and Order in Council, 9th March, 1914). Transfer by private order.
Transfer by order of Commissioners.

Upon the death of any person having charge of a single patient, the Commissioners may, upon the application of the person having authority to discharge the patient, or if he does not apply within seven days after the death, upon their own motion, direct the patient to be removed to the charge of a person named in the order (section 59 (2)). Death of person in charge.

Every order for the removal of a lunatic from the charge of any person, and the consent of the Commissioners thereto when required, must be in duplicate. One duplicate must be delivered to the person from whose care the lunatic is removed, and the other to the manager of the institution for lunatics, or to the person into whose care the lunatic is removed. And every such order, with such consent where required, is a sufficient authority for the removal and reception of the lunatic in accordance with the order (section 70 (1), (2)). Order and consent in duplicate.

The person from whose care the lunatic is removed must deliver, free of expense, a copy of the reception order and documents accompanying the same, to the person executing the order for removal, to be certified by him under his hand, and delivered to the manager of the institution into which, or the person into whose care the lunatic is removed (section 70 (3), (4)). Certified copies of reception order, &c., to accompany patient.

The person from whose charge the patient is removed must also, within two clear days after the removal, send a written notice thereof to the Commissioners, and in the case of a lunatic so found, to the Chancery Visitors. This notice must be in the Form 14 in the Schedule to the Rules (Commissioners' Rules, 26th June, 1895, R. 22). And any person having charge of a single patient who omits to send to the Commissioners the Notice of removal.

Introduct. prescribed notice upon the removal of the patient is guilty of a misdemeanor, and also renders himself liable to a penalty not exceeding fifty pounds (section 316).

CHAP. IV.

Discharge by
private
order.

15. Discharge.] A single patient must be discharged if the person on whose petition the reception order was made by writing under his hand so directs. If that person is dead, or incapable by reason of insanity, absence from England, or otherwise, of signing an order for discharge, then the person who made the last payment on account of the patient, or the husband or wife, or if there is no husband or wife, or he or she is incapable as aforesaid, then the father, or if there is no father or he is incapable as aforesaid, the mother, or if there is no mother or she is incapable, then any one of the nearest of kin of the patient, may give the direction for his discharge. And if there is no such person qualified to direct the discharge, or no person able or willing to act, the Commissioners may order the discharge (section 72).

Restriction
on discharge.

But the patient must not be discharged as above mentioned if his medical attendant certifies in writing that he is dangerous and unfit to be at large, together with the grounds upon which the certificate is founded unless one of the Commissioners after the certificate has been produced to him consents in writing to the patient's discharge (section 74).

Discharge by
Commis-
sioners.

Two Commissioners, one of whom must be a medical Commissioner and the other a legal Commissioner, may visit a person detained as a single patient, and may, within seven days after their visit, if the patient appears to them to be detained without sufficient cause, make an order for his discharge (section 75).

An order for the examination by two medical practitioners, authorised by the Commissioners, of any person detained as a single patient may be obtained from the Commissioners by any person, whether a relative or friend or not, who satisfies the Commissioners that it is proper for them to grant such order. And on production to the Commissioners of the certificates of the medical practitioners so authorised certifying that after two separate examinations with at least seven days intervening between the first and the second examination, they are of opinion that the patient may, without risk or injury to himself or the public, be discharged, the Commissioners may order the

patient to be discharged at the expiration of ten days from the date of the order (section 49). Introduct.

When the Commissioners make any order of discharge of a single patient they must forthwith serve it on the person having the charge of the patient, and must give notice of the order to the person on whose petition the reception order was made, or who made the last payment on account of the patient. And any person who has been duly served with such order and detains the patient after the date of discharge appointed thereby is guilty of a misdemeanor (section 76). CHAP. IV.
Service of
Commissioners' order
of discharge.

The person having charge of a single patient must in every case, within two clear days after the discharge of the patient, send written notice thereof to the Commissioners, and also in the case of a lunatic so found to the Chancery Visitors. This notice must be in the Form 15 in the Schedule to the Rules (Commissioners' Rules, 26th June, 1895, R. 23). Any person having charge of a single patient who omits in any case to send to the Commissioners the prescribed notice upon the discharge of the patient is guilty of a misdemeanor, and also renders himself liable to a penalty not exceeding 50*l.* (section 316). Notice of
discharge.

16. Recovery.] Every person having charge of a single patient must forthwith upon the recovery of the patient, send notice thereof to the person on whose petition the reception order was made, or by whom the last payment on account of the patient was made, stating that, unless the patient is removed within seven days from the date of the notice he will be discharged. And in case the patient is not so removed he must be forthwith discharged (section 83). Notice of discharge must be given to the Commissioners, and in the case of a lunatic so found also to the Chancery Visitors, in the same form, and under the same penalty for default as above mentioned. Notice of
recovery.

Discharge in
default of
removal.

17. Death.] In case of the death of a single patient the medical person or persons who attended him in his last illness must prepare and sign a statement as prescribed by the Commissioners' Rules, dated 4th December, 1912, *post*, p. 562.

Such notice (a) must be sent within 48 hours of the death, to

(a) This notice is quite independent of the duties of the occupier of the house and medical attendant, under sections 10, 29, and 48 of the Births and Deaths Registration Act, 1874 (37 & 38 Vict. c. 88).

Introduct. the persons specified in Rule 27 of the Commissioners' Rules, 26th June, 1895, R. 27 (1), (3), (4), *post*, p. 536.

CHAP. IV.

Any person having charge of a single patient who omits to make the prescribed entries and to give the prescribed notices upon the death of the patient is guilty of a misdemeanor, and also renders himself liable to a penalty not exceeding fifty pounds (section 316).

Order for
search by
Secretary of
Commis-
sioners.

18. Search for Patient.] Any person may apply to a Commissioner to be informed whether any particular person is confined as a single patient, and if the Commissioner thinks fit he may sign an order to the Secretary to the Commissioners, for a search amongst the returns made to the Commissioners whether the person inquired after is or has been confined within the last twelve months. And if that is the case the Secretary must deliver to the applicant a statement in writing specifying the place of confinement and the name of the person having charge of the patient and the date of his reception, and in case of removal or discharge, the date of such removal or discharge.

Search fee.

The applicant must pay to the Secretary for making the search such sum not exceeding seven shillings as the Commissioners may fix (section 51).

Visitation by
Commis-
sioners.

19. Visitation.] Once at least in every year one or more of the Commissioners must visit every unlicensed house in which a single patient is detained as a lunatic, and must inquire into and report to the Commissioners upon the treatment and state of bodily and mental health of the patient (section 198).

In addition to these annual visits, any one Commissioner on the direction of the Commissioners or of any two of them (of whom the one Commissioner may be one) may at all reasonable times visit a single patient and inquire into and report to the Commissioners or the Lord Chancellor on the treatment and state of health, both bodily and mental, of the patient, and as to the moneys paid on his account. And upon every such visit the Medical Journal must be produced to the visiting Commissioner and he must sign it. And every report made upon such visit must be kept by the Secretary to the Commissioners, and if the Commissioners think it expedient a copy thereof must be laid before the Lord Chancellor (section 199 (1), (3), (4)).

Any Commissioner visiting an unlicensed house may inspect any part of the house and grounds belonging thereto, and if the person having the charge of the single patient refuses to show to the Commissioner, at his request, any part of the house where the patient resides or of the grounds belonging to it, he is guilty of a misdemeanor (section 200). At each visit of a Commissioner or Commissioners all instruments and mechanical appliances which may have been employed in the application of bodily restraint to the patient since the last preceding visit of the Commissioners or Commissioner must be produced to the visiting Commissioners or Commissioner by the person having charge of the patient (Circ. 9th April, 1890).

Introduct.

CHAP. IV.

Inspection of
house and
grounds.Production of
mechanical
means of
restraint.

Upon the request in writing of the Commissioners or of any two of them, any one or more of the visitors appointed for any county or borough must at all reasonable times visit any single patient detained in an unlicensed house in such county or borough, and inquire into and report to the Commissioners or the Lord Chancellor on the treatment and state of health of the patient, both bodily and mental, and as to the money paid on his account. And upon every such visit the Medical Journal must be produced to the visitor or visitors and he or they must sign it. And every report made on every such visit must be kept by the Secretary to the Commissioners, and if the Commissioners think it expedient a copy thereof must be laid before the Lord Chancellor (section 199 (2), (3), (4)).

Visitation by
visitors of
licensed
houses.

Any person who obstructs any Commissioner or visitor in the exercise of the powers conferred by the Act, renders himself liable to a penalty not exceeding 50*l.* for each offence, and is also guilty of a misdemeanor (section 321 (1)).

Obstruction.

Finally, if any case, for reasons to be entered on their minutes, appears to the Commissioners to call for immediate investigation, they may order any competent person or persons to visit and report upon the mental and bodily condition of any single patient, and to inquire into and report upon any matters into which the Commissioners are authorised to inquire, and may allow to any such person a reasonable sum for his services and expenses (section 204 (1), (2)). And for the special purposes mentioned in the order of the Commissioners every such person has all the powers of a Commissioner (section 204 (2)). And any person who wilfully obstructs any such person in the execution of the order renders himself liable to a penalty not exceeding 20*l.* for every such offence (section 321 (2)).

Special visit
by order of
Commis-
sioners.

Introduct. C. LUNATICS IN PRIVATE FAMILIES AND CHARITABLE
 CHAP. IV. ESTABLISHMENTS.

- | | |
|-------------------------------------|-------------------------------------------|
| 1. <i>Ill-treatment.</i> | 4. <i>Discharge or Removal.</i> |
| 2. <i>Reports to Commissioners.</i> | 5. <i>Expenses of Discharge, Removal,</i> |
| 3. <i>Visitation.</i> | <i>or Maintenance.</i> |

Ill-treatment
or wilful
neglect.

1. *Ill-treatment.*] If any person having charge of a lunatic, whether by reason of any tie of relationship, or marriage, or otherwise, ill-treats or wilfully neglects him, he is guilty of a misdemeanor, and on conviction on indictment is liable to fine or imprisonment, or both, at the discretion of the court, and is liable on summary conviction to a penalty not exceeding 20. nor less than 2*l.* for every offence (section 322).

Medical
reports by
order of
Commis-
sioners.

2. *Reports to Commissioners.*] If it comes to the knowledge of the Commissioners that any person appears to be detained or treated as a lunatic or alleged lunatic, without an order and certificates, either by any person receiving no payment for the charge, or in any charitable, religious, or other establishment not being an institution for lunatics, they may require the person by whom he is detained, or the superintendent or principal officer of the establishment, to send to them, within, or at such time or times as they may appoint, a report, or periodical reports, by a medical practitioner, of the mental and bodily condition of the patient, with all such other particulars as to him and his property as they may think fit (section 206 (1)). All reports and particulars sent to the Commissioners must be kept by them, and be open to inspection only by the Commissioners and the Lord Chancellor, and such persons as the Lord Chancellor directs (section 206 (5)). And the Commissioners may, if they think fit, transmit any such reports to the Lord Chancellor (section 206 (3)).

Visitation by
Commis-
sioners.

3. *Visitation.*] Any one or more of the Commissioners may, at any time, visit any such patient, and report the result of the visit to the Commissioners, and may exercise, with respect to such patient, all the powers (except that of discharge) given to them as to persons confined in any institution for lunatics, or as single patients (section 206 (2)). And the Commissioners may report the result of any inquiries made by them to the Lord Chancellor (section 206 (3)). Any person

who obstructs any Commissioner in the exercise of the powers conferred by the Act, or by any other Act, is liable to a penalty not exceeding 50*l.* for each offence, and is also guilty of a misdemeanor (section 321 (1)).

Introduc.
CHAP. IV.

The Lord Chancellor or a Secretary of State may, at any time, by an order in writing under his hand, directed to the Commissioners, or any of them, or to any other person, require them or him to visit and examine any lunatic or alleged lunatic, and to inspect any place in which a lunatic or alleged lunatic is detained, and to report to the Lord Chancellor or Secretary of State upon such matters as are in the order directed to be inquired into. And every person (not being a Commissioner) employed for such purpose, may be paid for his services such sum as the Lord Chancellor or Secretary of State thinks reasonable. And every person so employed, whether a Commissioner or not, must be allowed his reasonable travelling or other expenses while so employed. All sums so payable, either for services or expenses, are payable out of moneys provided by Parliament (section 205). And any person who wilfully obstructs any other person authorised by an order, in writing, under the hand of the Lord Chancellor or a Secretary of State, to visit and examine any lunatic or supposed lunatic, or to inspect and inquire into the state of any place in which any lunatic or person represented to be a lunatic is confined, or alleged to be confined, in the execution of such order, is liable to a penalty not exceeding 20*l.* for every such offence, and that without prejudice to any proceedings, and in addition to any punishment to which he would otherwise be liable (section 321 (2)).

Visitation by
order of Lord
Chancellor
or Secretary
of State.

4. *Discharge or Removal.*] The Lord Chancellor, upon any report sent to him by the Commissioners, whether received by them from a medical practitioner or of their own making, may make an order for the discharge of the patient from the custody in which he is detained, or for his removal to an institution for lunatics, or to such other custody as he may think fit (section 206 (3)).

Discharge or
transfer by
order of Lord
Chancellor.

5. *Expenses of Discharge, Removal, and Maintenance.*] The expenses properly incurred of carrying out any order for removal or discharge made as aforesaid, and of maintaining the

Expenses
payable by
guardians.

Introd. patient if removed must, if the order so directs, be paid by the guardians of the union or parish in which the lunatic was found, until the authority legally liable for his maintenance has been ascertained as described in the next following chapter (section 206 (3)). The guardians, however, have the same right to recover any such expenses paid by them against the lunatic and his estate, and the person or authority legally liable for his maintenance, as in the case of orders for maintenance under the Act (section 206 (3)). And where an order is made by the Lord Chancellor for the removal of the lunatic to an asylum, any justice of the county or borough in which the asylum is, may exercise all the powers conferred upon a justice by the Act, for the purpose of making the lunatic's property applicable to his maintenance, and for maintaining him as a pauper (section 206 (4)).

D. LUNATICS IN WORKHOUSES.

- | | |
|------------------------------------------------------------|----------------------------------------------------------------------|
| 1. <i>Certificates and Orders for Detention.</i> | 7. <i>Ill-treatment.</i> |
| 2. <i>Unrecovered Paupers Discharged from Institution.</i> | 8. <i>Visits of Friends.</i> |
| 3. <i>Chronic Lunatics Removed from Asylum.</i> | 9. <i>Quarterly Visits and Returns by Workhouse Medical Officer.</i> |
| 4. <i>Visiting Guardians' Book.</i> | 10. <i>Visitation by Commissioners.</i> |
| 5. <i>Diet and Treatment.</i> | 11. <i>Escape and Recapture.</i> |
| 6. <i>Mechanical Restraint.</i> | 12. <i>Removal.</i> |
| | 13. <i>Discharge.</i> |

1. *Certificates and Orders for Detention.*] Except in the cases mentioned in the Act, no person may be allowed to remain in the workhouse without a proper certificate from the workhouse medical officer (section 24 (1)). “ Workhouse ” includes an asylum provided for the reception and relief of the insane under the Metropolitan Poor Act, 1867, 30 Vict. c. 6, s. 341.

Cases where no workhouse medical officer's certificate necessary. The exceptional cases include (1) the case of a lunatic removed to the workhouse by a constable, overseer, or relieving officer whose duty it is to take proceedings in relation to him as not being under proper care and control, or cruelly treated or neglected, or as a wandering lunatic, or as a resident pauper lunatic ; (2) the case of a lunatic temporarily removed to the workhouse under a justice's order ; (3) the case of a lunatic in a workhouse

on the 1st May, 1890, as to whom a certificate had been signed under section 20 of the Lunacy Act, 1862, 25 & 26 Vict. c. 111 ; (4) the case of a pauper lunatic discharged not recovered from an institution for lunatics, with a certificate from the medical officer, as hereinafter mentioned ; (5) chronic lunatics received from an asylum by arrangement with the visiting committee, and with the consent of the Local Government Board and the Commissioners ; and (6) *semble*, the case of a pauper suffering from mental disease in the workhouse on the 1st May, 1890, as to whom a report had before that date been made under section 22 of the Poor Law Amendment Act, 1867, 30 & 31 Vict. c. 106 (Act of 1891, s. 4 (1)).

Introduct.
CHAP. IV.

The workhouse medical officer's certificate above referred to must state—

Workhouse
medical
officer's
certificate.

- (1.) That the person to be detained in the workhouse is a lunatic, with the grounds for such opinion ; and
- (2.) That he is a proper person to be allowed to remain in the workhouse as a lunatic ; and
- (3.) [Except in a metropolitan district asylum (Act of 1891, s. 4 (2)).] That the accommodation in the workhouse is sufficient for his proper care and treatment, separate from the inmates of the workhouse not lunatics, or that his condition is such that it is not necessary for the convenience of the lunatic, or of the other inmates, that he should be kept separate (section 24 (1)).

The certificate should be in the Form 10 in the Second Schedule (section 339), and is sufficient authority for detaining the lunatic therein named against his will in the workhouse for fourteen days from its date (section 24 (2)).

No lunatic may be detained against his will, or allowed to remain in a workhouse for more than fourteen days from the date of the workhouse medical officer's certificate above mentioned, without an order under the hand of a justice having jurisdiction in the place where the workhouse is situate (section 24 (3)). But no such order is required in the case of a pauper suffering from mental disease in the workhouse on the 1st May, 1890, as to whom a report had before that date been made under section 22 of the Poor Law Amendment Act, 1867 (Act of 1891, s. 4 (1)). Such an order, where necessary, may be obtained upon the application of a relieving officer of the union or parish to which the workhouse belongs, supported by a medical

Justice's
order for
detention.

Introduct. certificate under the hand of a medical practitioner, not being
CHAP. IV. an officer of the workhouse, and by the certificate under the
 hand of the workhouse medical officer above referred to (section
 24 (4)).

The guardians of the union or parish to which the workhouse belongs must pay such reasonable remuneration as they think fit to the medical practitioner who, not being an officer of the workhouse, examines a person for the purposes of a certificate in support of the relieving officer's application (section 24 (5)). The certificate made by such medical practitioner should be in the Form 8 of the Second Schedule (section 339). The order of the justice for the detention of the lunatic should be in the Form 11 of the Second Schedule (section 339). There must be attached to every such order the medical certificates on which it is founded (Act of 1891, s. 5).

**Removal to
asylum.**

If the medical officer does not sign the certificate as above mentioned, or if before the expiration of fourteen days from the date of such certificate, an order is not made by a justice for the lunatic's detention in the workhouse, or the lunatic ceases to be a proper person to be detained in the workhouse, the medical officer shall notify the relieving officer who shall take the necessary steps provided by the Act, for the removal of the lunatic to an asylum, and pending such proceedings the lunatic may be detained in the workhouse (section 24 (6)).

**Lunatics in
metropolitan
district
asylums.**

In the cases of lunatics in asylums provided for the reception and relief of the insane by the managers of an asylum district under the Metropolitan Poor Act, 1867, the notices to be given to and the proceedings to be taken by a relieving officer are to be given to and taken by one of the officers of the asylum to be nominated for the purpose by the managers of such asylum district (section 24 (7)). And the managers must pay the remuneration of the medical officer who, not being an officer of the asylum, examines a person for the purposes of the certificate in support of the application for a justice's order (section 24 (5)).

**Discharge to
workhouse
from asylum
of unre-
covered
pauper.**

2. Unrecovered Paupers Discharged from Institution.] Where a pauper lunatic is discharged from an institution for lunatics, and the medical officer of the institution is of opinion that the lunatic has not recovered, and is a proper person to be kept in a workhouse as a lunatic, he must certify such opinion, and the

lunatic may thereupon be received into and detained against his will in a workhouse without further order, provided that the workhouse medical officer certifies in writing that the accommodation in the workhouse is sufficient for the lunatic's proper care and treatment, separate from the inmates of the workhouse not lunatics, or that the lunatic's condition is such that it is not necessary for the convenience of the lunatic or of the other inmates that he should be kept separate (section 25).

Introduct.
CHAP. IV.

3. *Chronic Lunatics Removed from Asylums.*] With the consent of the Local Government Board and the Commissioners in Lunacy, and subject to such regulations (a) as they respectively prescribe, the visiting committee of any asylum may make arrangements with the guardians of any union or parish for the reception into the workhouse of any chronic lunatics, not being dangerous, who are in the asylum and have been selected and certified by the manager of the asylum as proper to be removed to the workhouse. But every such lunatic received into the workhouse must whilst he remains there be continued as a patient on the books of the asylum for the purposes of the Act so far as it relates to lunatics removed to asylums (section 26).

Agreements
for reception
of chronic
lunatics in
workhouse.

4. *Visiting Guardians' Book.*] A book must be provided and kept by the master of every workhouse in which the visiting guardians must, once at least in every quarter, enter such observations as they may think fit to make respecting the diet, accommodation, and treatment of the lunatics or alleged lunatics in the workhouse (section 54).

Visiting
guardians'
book.

5. *Diet and Treatment.*] It is the duty of the medical officer of the workhouse to give directions and make suggestions as to the diet, classification, and treatment of the paupers of unsound mind in the workhouse.

Orders of
Local
Government
Board as to
diet and
treatment.

A Commissioner, or Commissioners, may, upon a visit to a workhouse, make such inquiries, as he or they may desire, respecting the diet, accommodation, and treatment of any lunatics therein.

6. *Mechanical Restraint.*] Mechanical means of bodily restraint must not be applied to any lunatic in the workhouse

When not to
be applied.

(a) See 48th Rep., p. 102, and App. (O.), p. 370.

Introduct. unless the restraint is necessary for purposes of medical or surgical treatment, or to prevent the lunatic from injuring himself or others (section 40 (1)). Mechanical means of bodily restraint are and include all instruments and appliances, whereby the movements of the body or of any of the limbs of a lunatic are restrained or impeded (section 40 (6), and Regulation, 25th June, 1913). In every case where such restraint is applied a medical certificate must, as soon as it can be obtained, be signed by the workhouse medical officer, describing the mechanical means used, and stating the grounds upon which the certificate is founded (section 40 (2)). A full record of every case of mechanical restraint must be kept from day to day by the workhouse medical officer in the Register of Mechanical Restraint (section 40 (4), (5), and Commissioners' Rules, 31st October, 1906, R. 1, and 26th June, 1895, R. 5). The Register of Mechanical Restraint must be in the Form 5 in the Schedule to the Rules of 26th June, 1895. A copy of the entries therein must be sent to the Commissioners in Lunacy at the end of every quarter by the clerk to the guardians (section 40 (4), (5)). And any person who wilfully acts in contravention of the provisions of the Act as regards mechanical restraint, is guilty of a misdemeanor (section 40 (7)).

CHAP. IV.
What are
mechanical
means.

Register of
mechanical
restraint.

Ill-treatment
or wilful
neglect.

7. *Ill-treatment.*] Any person having charge of a lunatic in a workhouse who ill-treats or wilfully neglects him is guilty of a misdemeanor, and is on conviction on indictment liable to fine or imprisonment, or both, at the discretion of the court, or liable on summary conviction to a penalty not exceeding 20*l.*

Carnal abuse
of females.

nor less than 2*l.* for every offence (section 322). And any officer, nurse, attendant, or other person employed in a workhouse who carnally knows or attempts to have carnal knowledge of any female lunatic in the workhouse, is guilty of a misdemeanor, and liable on conviction on indictment to be imprisoned, with or without hard labour, for any term not exceeding two years; and no consent or alleged consent of such female is any defence (section 324).

Visits of
friends by
order of Com-
missioners.

8. *Visits of Friends.*] Any one of the Commissioners in Lunacy may at any time give an order in writing under his hand for the admission to any lunatic in a workhouse of any relation or friend, or of any medical or other person whom any

relation or friend desires to be admitted to him. And the order may be for a single admission, or for an admission for a limited number of times, or for admission generally at all reasonable times, and with or without any restriction as to the presence of an attendant or otherwise. And if the master of the workhouse refuses, prevents, or obstructs the admission of any person producing such an order, he renders himself liable to a penalty not exceeding 20*l.* for every such offence (section 47).

Introduct.

CHAP. IV.

9. Quarterly Visits and Returns by Workhouse Medical Officer.] Every pauper lunatic resident in a workhouse must be visited by the medical officer of the workhouse once in every quarter ending 31st March, 30th June, 30th September, and 31st December (section 202 (1)). And within seven days after the end of each such quarter the workhouse medical officer must make a return of all such lunatics visited by him during the preceding quarter, or if there were no such lunatics in the workhouse of which he is medical officer, must make a return to that effect and send or deliver it to the clerk of the guardians (Commissioners' Rules, 26th June, 1895, R. 32 (1), (2)). Such returns must be in the Forms 24 and 25 in the Schedule to those Rules. Forms for the returns must be supplied to the workhouse medical officer by the guardians (section 202 (2)). No extra fees are payable to the workhouse medical officers for these visits and returns. The clerk to the guardians must, within two clear days after the receipt thereof, make a copy, and send the return itself to the Commissioners in Lunacy, and the copy to the clerk of the visiting committee of the asylum for the county or borough in which his union or parish is wholly or partly situate (Commissioners' Rules, 26th June, 1895, R. 32 (3)).

Workhouse
medical
officer's
quarterly
visits and
returns.Copy return
for Com-
missioners.

10. Visitation by Commissioners, &c.] Any one or more of the Commissioners must, on such day or days, and at such hours of the day, and for such length of time as he or they may think fit, visit all such workhouses in which there is or is alleged to be any lunatic as the Commissioners by any resolution direct (section 203). The visiting Commissioner or Commissioners must inquire whether the provisions of the law have been carried out, and also as to the dietary, accommodation, and treatment of the lunatics, and must report in writing thereon to the Commissioners, and the Commissioners must forward a

Visitation by
Commis-
sioners.

Introduct. copy of every such report to the Local Government Board (section 203). The book in which the visiting guardians make their entries as to the diet, accommodation, and treatment of the lunatics or alleged lunatics in the workhouse must be laid by the master of the workhouse before the visiting Commissioner or Commissioners at every visit (section 54), and with it the certificates of the workhouse medical officer and orders of justices as to the detention of lunatics in the workhouse.

CHAP. IV.

Obstruction. Any person who obstructs any Commissioner in the exercise of the powers conferred by the Act renders himself liable to a penalty not exceeding 50*l.* for each offence, and is also guilty of a misdemeanor (section 321 (1)).

Special visits by order of Commissioners.

If, for reasons to be entered on their minutes, the Commissioners think any case calls for immediate investigation, they may by order direct any competent person or persons to visit and report upon the mental and bodily condition of any lunatic or alleged lunatic in a workhouse, and may allow such person a reasonable sum for his services and expenses (section 204 (1), (3)). Every such person has, for the special purposes mentioned in the order, all the powers of a Commissioner (section 204 (2)). And any one who wilfully obstructs such person in the execution of such order is liable to a penalty not exceeding 20*l.* for every such offence, and that without prejudice to any proceedings and in addition to any punishment to which he would otherwise be subject (section 321 (2)).

Recapture in England and Wales.

11. *Escape and Recapture.*] If any person detained under the Act as a lunatic in a workhouse escapes, he may be retaken at any time within fourteen days after his escape by the master of the workhouse, or by any one authorised in writing by the master (section 85). The provisions applying to escapes from institutions for lunatics in England to Scotland or Ireland are equally applicable to escapes from a workhouse (sections 85, 89).

Recapture in Scotland or Ireland.

Transfer to institution by order of Commissioners.

12. *Removal.*] Any Commissioner in Lunacy may, where it appears to him upon the visitation of a workhouse that a lunatic or alleged lunatic therein is not a proper person to be allowed to remain in a workhouse, by order direct the lunatic to be removed to an institution for lunatics, and every such order has the same effect as a summary reception order (section 60 (1), and Order in Council, 9th March, 1914), that is to say,

it will be sufficient authority for the person authorised to do so by the Commissioner making the order to take the lunatic and convey him to the institution named therein, and for his reception and detention therein, and may be acted upon without further evidence of the signature or jurisdiction of the Commissioner making the order (section 35).

Introduct.
CHAP. IV.

The guardians of the union or parish to which the workhouse belongs may appeal to a Secretary of State against any such order within one month from the making of it. And the Secretary of State must thereupon employ a Commissioner, not being the Commissioner or one of the Commissioners who made the order, or some other person, to make a special visitation of the workhouse and report to him upon the matter, and the decision of the Secretary of State upon such report is conclusive (section 60 (2)).

Appeal by
guardians to
Secretary
of State.

13. Discharge.] The guardians of the union or parish to which a workhouse belongs may make an order for the discharge of any lunatic detained therein (section 81).

Discharge by
order of
guardians.

E. CHARGEABLE LUNATICS NOT IN INSTITUTIONS OR WORKHOUSES.

Quarterly Visits, Returns, and Reports by District Medical Officer.] Every pauper lunatic not in an institution for lunatics or workhouse must be visited by the district medical officer of the union or parish within whose district the lunatic is resident once in every quarter ending the 31st March, 30th June, 30th September, and 31st December (section 202 (1)). For every such visit the medical officer is entitled to be paid a fee of two shillings and sixpence, which must be paid by the same persons and charged to the same account as the relief of the pauper (section 202 (4)).

District
medical
officer's
quarterly
visits to
out-paupers.

Fees for
visits.

In the case of a pauper lunatic boarded-out with any relative or friend by order of the visiting committee of an asylum, the medical officer must, within three days after each quarterly visit, send a report to the visiting committee, stating whether, in his opinion, the lunatic is properly taken care of and may

Visits to
boarded-out
lunatics.

Introduct. properly remain out of an asylum (section 202 (3)). For every such report the medical officer is entitled to a fee of two shillings and sixpence, in addition to the fee for each visit hereinbefore referred to, and this fee is likewise to be paid by the same persons and charged to the same account as the relief of the pauper (section 202 (4)).

CHAP. IV.
Additional
fees for
reports.

Quarterly
returns.

Within seven days after the end of any such quarter as above mentioned, the medical officer of every district of a union or parish must make a return and send or deliver it to the clerk of the guardians of all the pauper lunatics not in an institution for lunatics or workhouse who have been visited by him during the preceding quarter, or if there were no such lunatics in his district he must make a return to that effect (Commissioners' Rules, 26th June, 1895, R. 32 (1), (2)). Such returns must be in the Forms 24 and 25 in the Schedule to those Rules. The guardians of every union and parish must, from time to time, furnish every district medical officer of their union or parish with forms for such returns (section 202 (2)).

Copy return
for Com-
missioners
and visiting
committee.

The clerk to the guardians receiving the returns must, within three days, make a copy of each, and send the original returns to the Commissioners, and the copies to the clerk of the visiting committee of the asylum for the county or borough in which his union or parish is wholly or partly situate (Commissioners' Rules, 26th June, 1895, R. 32 (3)).

CHAPTER V.

Introduct.

EXPENSES OF CHARGEABLE LUNATICS.

CHAP. V.

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| <ol style="list-style-type: none"> 1. <i>Lunatics to whom provisions are applicable.</i> 2. <i>Chargeability of Pauper Lunatics.</i> 3. <i>Subventions to Guardians by County Council.</i> 4. <i>Repayments to Guardians by Non-Contributory Boroughs.</i> 5. <i>Liability of Relatives.</i> 6. <i>Orders for Maintenance.</i> 7. <i>Inquiry and Adjudication as to Settlement.</i> 8. <i>Adjudication of Chargeability to Local Authority.</i> 9. <i>Subvention to Boroughs by County Councils.</i> | <ol style="list-style-type: none"> 10. <i>Adjudication of Settlement of Lunatic adjudged chargeable to Local Authority.</i> 11. <i>Appeals as to Settlement.</i> 12. <i>Expenses of Irremovable Lunatics.</i> 13. <i>Expenses of Removal, Discharge, and Burial.</i> 14. <i>Recovery of Expenses against Lunatic's Estate.</i> 15. <i>Appeals against Refusal of Order by Justices.</i> 16. <i>Annual Returns as to Chargeable Lunatics.</i> |
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1. *Lunatics to whom provisions as to Expenses are applicable.*] Provisions applicable to all classes of pauper lunatics.

The provisions of the principal Act for the payment of expenses in relation to pauper lunatics are applicable with respect to—

- (1.) Persons confined as pauper lunatics sent to any institution for lunatics under any other Act authorising their reception therein as pauper lunatics ; and
- (2.) With the exception of the provisions concerning any lunatic who appears to have any real or personal property applicable to his maintenance, to all other lunatics sent to any institution for lunatics,
 - (a.) Under any order of a justice or justices made before the 1st May, 1890, or
 - (b.) Under a summary reception order made by a justice under this Act, or
 - (c.) Under an order made by a Commissioner as if such lunatics were at the time of being so sent actually chargeable to the union from which they were sent (section 298).
- (3.) Lunatics in institutions for lunatics who become paupers (Act of 1891, s. 22).

2. *Chargeability of Pauper Lunatic.*] Where a pauper lunatic is sent to an institution for lunatics, or where a lunatic in an institution for lunatics becomes a pauper, he is to be deemed *Prima facie* chargeable.

Introduct. to be chargeable to the union or parish from which he was sent, until it has been established as provided by the principal Act that he is settled in some other union or parish, or that it cannot be ascertained in what union or parish he was settled ; and the manager of the institution wherein a private patient has become destitute must forthwith give notice to that effect to the authority liable for his maintenance (section 286 (1)).

CHAP. V.

Four shilling
grants to
guardians.

3. Subventions to Guardians by County Council.] In substitution for the local grants formerly made out of the Exchequer, the council of each county must, from time to time, pay out of the county fund to the guardians of every union and separate parish wholly or partly in the county a sum equal to four shillings a week for each pauper lunatic maintained in an institution for lunatics, for whom the net charge upon the guardians, after deducting any amount received by them for the maintenance of such lunatic from any sources other than local rates, is equal to or exceeds four shillings a week throughout the period of maintenance for which the sum is so paid (51 & 52 Vict. c. 41, s. 24 (2), (f)). And for the purposes of the foregoing enactment a lunatic boarded out by the authorities of any asylum shall be deemed to be a lunatic maintained in an asylum (section 57 (3)). And every lunatic received into a workhouse under section 26 of the principal Act shall, while he remains there continue a patient on the books of the asylum for the purposes of this Act so far as it relates to lunatics removed to asylums (section 26 (2)). Where any sum is so payable to the guardians of a union or parish extending into more administrative counties than one a proportionate part only of the sum otherwise payable must be paid by the council of each of such counties to the guardians, on the certificate of the Local Government Board (51 & 52 Vict. c. 41, s. 24 (5)).

Repayments
by non-con-
tributory
boroughs for
lunatics in
hospitals and
licensed
houses.

4. Repayments to Guardians by Non-Contributory Boroughs.] Where any pauper lunatic is sent to a licensed house, or registered hospital from any part of a borough wholly or partly comprised in a union or parish and not having provided or contributed to the providing of a pauper lunatic asylum, and the account of the charges for the maintenance of such lunatic therein is sent to the guardians of the said union or parish, the clerk to the guardians must divide the account into two parts,

one of which is to contain the amount which would have been paid for such lunatic if he had been maintained in the asylum of the county wherein the said union or parish, or the greater part of it, is comprised, and the other is to contain the extra sum in such account; and the guardians having paid the whole of such charges may send the second account, together with an account of any extra expenses caused by the removal of such lunatic to the place of confinement, to the town council of the borough from which such lunatic was so sent, and such town council must thereupon pay the amounts of such accounts to the guardians, and if the same be not paid, the amount may be recovered by the guardians by process in any court of law as a debt (39 & 40 Vict. c. 61, s. 26).

Introd.
CHAP. V.

5. *Liability of Relatives.*] The liability of any relation or person to maintain any lunatic sent to or confined in any institution for lunatics, is not affected by any provision concerning the maintenance of such lunatic contained in the Acts (section 296).

Poor law
liability for
maintenance
unaffected.

6. *Orders for Maintenance.*] The justice by whom any pauper lunatic is sent to an institution for lunatics, or any two justices of the county or borough in which the institution for lunatics where any pauper lunatic is confined is situate, or from any part of which any pauper lunatic has been sent, or any two justices, being visitors of such institution, may make an order upon the guardians of the union or parish to which the lunatic is chargeable (although such union or parish is not within the jurisdiction of such justice or justices (section 292)), for payment to the treasurer or manager of the institution of the reasonable expenses of maintenance, that is to say, the charges of the lodging, maintenance, medicine, clothing, and care of such lunatic. And any such order may be retrospective or prospective, or partly retrospective and partly prospective, and is not subject to appeal (section 287). An order for payment of the future expenses of maintenance extends to the payment of such expenses to the treasurer or manager of any institution for lunatics to which the lunatic is removed as well as one in which he is for the time being confined (section 293).

Order for
maintenance
by whom to
be made.

To what
expenses the
order
extends.

If the guardians upon whom any order of justices for the payment of money under the provisions of the principal Act

Enforcement
of order.

Introduct. is made, refuse or neglect for twenty days after due notice of the order to pay the money, the same, together with the expenses of recovering the same, may be recovered by action at law, or by any other proceeding in any court of competent jurisdiction (section 314 (2)). And in any such action or proceeding no objection shall be taken to any default or want of form in any order for reception or maintenance or in any certificate under that Act (section 314 (3)).

CHAP. V.

When payments may be made without order:

The guardians of the union or parish from which the lunatic was sent may safely pay the expenses of maintenance, without any order for payment made upon them, until the place of settlement of the lunatic has been ascertained and he has been adjudged chargeable to the guardians thereof, or to the county or borough where he was found in case his settlement cannot be ascertained (section 295).

Who may apply for inquiry.

7. *Inquiry and Adjudication of Settlement.*] Orders as to the settlement or chargeability of pauper lunatics and for payment of expenses may be obtained by the guardians of any union or parish.

Before what justices:

Any two justices for the county or borough in which an institution for lunatics where a pauper is or has been confined is situate, or to which such institution being an asylum wholly or in part belongs, or from any part of which any pauper lunatic is or has been sent for confinement, may at any time inquire into the settlement of any pauper lunatic (section 288).

Access to lunatic for examination:

In every case of an inquiry as to the union or parish in which a pauper lunatic is settled, the guardians, clerks to the guardians, and relieving officers of every union or parish interested in the inquiry, and every person duly authorised by them respectively are at all reasonable times allowed free access, in the presence of the medical attendant, to the lunatic to examine him as to the premises (section 312).

Constructive residence of lunatic.

Every pauper lunatic who is chargeable to a union or parish must, while he resides in an institution for lunatics, be deemed for the purposes of his settlement to be resident in the union or parish to which he is chargeable (section 286 (2)).

Adjudication of settlement and order for expenses.

If satisfactory evidence as to settlement in any union or parish can be obtained, the justices holding the inquiry must by order adjudge the settlement, and order the guardians of such union or parish [although not within the jurisdiction of the

justices making the order (section 292 (1))], to pay to the guardians of any other union or parish the expenses incurred in and about the examination of the lunatic and the bringing him before a justice or justices, and his removal and conveyance to or from any institution for lunatics (which are called the incidental expenses), and all the expenses of maintenance of the lunatic paid by such last-mentioned guardians and incurred within twelve months previous to the date of the order, and if the lunatic is still in confinement also to pay to the treasurer or manager of the institution the reasonable expenses of the future maintenance of such lunatic (section 289). An order for the payment of future expenses of maintenance extends to the payment of such expenses to the treasurer or manager of any institution for lunatics to which the lunatic may be removed, as well as to the one in which he is for the time being confined (section 293).

The guardians obtaining an order of adjudication of settlement must, within a reasonable time after the date of the order, send or deliver, by post or otherwise, to the guardians of the union or parish in which the lunatic is adjudged to be settled, a copy of the order, and also a statement in writing signed by their clerk. This statement must contain the description and address of the guardians obtaining the order, and the place of confinement of the lunatic ; and it must set forth the grounds of the adjudication, including the particulars of any settlement relied upon in support thereof ; and on the hearing of any appeal against the order, the respondents will not be allowed to give evidence of any other grounds in support of the order than those set forth in this statement (section 302). If the justices making the order have no clerk, that fact must also be stated in this statement (section 304 (5)).

If the guardians of a union or parish upon whom any such order is made refuse or neglect for twenty days after due notice of such order to pay the money, the money, together with the expenses of recovering it, may be recovered by an action at law, or by any other proceeding in a court of competent jurisdiction (section 314 (2)). And in case of any such action or proceeding no objection can be taken to any default or want of form in any order for reception or maintenance or in any certificate or adjudication under the Act, if such order or adjudication has not been appealed against, or if appealed against has been affirmed (section 314 (3)).

Introduct.

CHAP. V.

To what expenses the order may extend.

Copy order and grounds for guardians made liable.

Enforcement of order.

Introduct. The guardians upon whom an order might be made for the payment of any money may pay the same without an order, and charge it to such account as they could have done if an order had been made (section 295).

CHAP. V.
Payments
without
order.

Inquiry
when settle-
ment cannot
be ascer-
tained.

Notice to
clerk of
local autho-
rity.

Order of
adjudication
to local
authority.

To what
expenses
order may
extend.

Further
inquiries.

Enforcement
of order.

8. Adjudication of Chargeability to Local Authority.] If a pauper lunatic is not settled in the union or parish from which he is sent to an institution for lunatics and his settlement cannot be ascertained, and he was sent from a quarter sessions borough which is free from contributing to the payment of the expenses of pauper lunatics chargeable to the county in which the borough is situate, or from a place not in such a borough, then the relieving officer of the union or parish must give to the clerk of the council of the county or to the town clerk of the borough within which the lunatic was found, ten days' notice to appear before two justices for such county or borough at a time and place to be appointed in the notice (section 290 (1)).

Upon the appearance of the clerk of the county council or town clerk of the borough, as the case may be, in person or by deputy, or in case of non-appearance upon proof of due service of the notice, any two or more such justices may inquire into the circumstances of the case, and may adjudge the pauper lunatic to be chargeable to the county council or to the town council of the borough, and may order the treasurer of such council to pay to the guardians the incidental expenses of the lunatic, and all expenses of maintenance paid by the guardians and incurred within twelve months previous to the date of the order, and if the lunatic is still in confinement to pay to the treasurer or manager of the institution for lunatics in which he is confined the expenses of his future maintenance (section 290 (2)). An order for payment of future expenses of maintenance extends to the payment of such expenses to the treasurer or manager of any institution for lunatics to which the lunatic may be removed as well as to the one in which the lunatic is for the time being confined (section 293).

Instead, however, of making an order immediately the justices may direct further inquiries to ascertain the union or parish in which the lunatic is settled, and delay their adjudication until after such further inquiries (section 290 (3)).

If an order for payment of expenses is made and the treasurer of any county council or of the town council of any borough,

upon whom any such order is made, refuses or neglects for twenty days after due notice of such order to pay the money, the money, together with the expenses of recovering it, may be recovered by distress and sale of his goods by warrant under the hands of any two justices authorised to make such order, or by an action at law, or by any other proceeding in a court of competent jurisdiction, against the treasurer (section 314 (1)). And in case of any such action or proceeding no objection may be taken to any default or want of form in any order for reception or maintenance, or in any certificate or adjudication under the Act, if such order or adjudication has not been appealed against, or if appealed against has been affirmed (section 314 (3)).

Introduct.
CHAP. V.

9. *Subvention to Borough by County Council.*] The county council must pay to the council of each borough in the county to which the maintenance of any pauper lunatic is chargeable a sum equal to four shillings a week for each such pauper lunatic for whom the net charge upon the council of the borough, after deducting any amount received by them for the maintenance of such lunatic from any source other than local rates, is equal to or exceeds four shillings a week throughout the period of maintenance for which such sum is paid [51 & 52 Vict. c. 41, s. 24 (2), (g)].

Four shilling
grants to
boroughs.

10. *Adjudication of Settlement of Lunatic adjudged chargeable to Local Authority.*] No appeal lies against an order adjudging a lunatic to be chargeable to a county council or to the town council of a borough, but every such council to whom a pauper lunatic is adjudged chargeable may at any time afterwards inquire as to the union or parish in which the lunatic is settled, and may procure him to be adjudged to be settled in any union or parish (section 290 (4)). If after a pauper lunatic has been sent to an institution for lunatics, and has been adjudged chargeable to a county council or to the town council of a borough, such council procure the lunatic to be adjudged to be settled in a union or parish, any two justices of the county or borough in which the institution where the lunatic is confined is situate, or from any part of which the lunatic was sent for confinement, or any two justices being visitors of the institution, may make an order upon the guardians of such union or parish

Re-adjudica-
tion of lunatic
chargeable to
local autho-
rity.

Application
for order for
repayment of
expenses.

Before what
justices.

<p>Introduct.</p> <p>CHAP. V.</p> <p>To what expenses order may extend.</p>	<p>for repayment to the treasurer of the council of all expenses of maintenance paid by him and incurred within twelve months previous to the order, and if the lunatic is still in confinement also for payment to the treasurer or manager of the institution of the expenses of future maintenance of the lunatic (section 291). An order for the payment of the future expenses of maintenance extends to the payment of such expenses to the treasurer or manager of any institution for lunatics to which the lunatic may be removed, as well as to the one in which he is for the time being confined (section 293).</p>
<p>Form of order.</p> <p>Copy order and grounds for guardians made liable.</p>	<p>The clerk of a county council or town clerk of a borough obtaining any order adjudging the settlement of any lunatic to be in any union or parish must, within a reasonable time after the date of the order, send or deliver by post or otherwise, to the guardians of the union or parish in which the lunatic is adjudged to be settled, a copy of the order, and also a statement in writing signed by him. This statement must contain the description and address of the clerk obtaining the order, and the place of confinement of the lunatic, and must set forth the grounds of the adjudication, including the particulars of any settlement relied upon in support thereof; and on the hearing of any appeal against the order the respondent will not be allowed to give evidence of any other grounds in support of the order than those set forth in this statement (section 302). If the justices making the order have no clerk, that fact must also be contained in this statement (section 304 (5)).</p>
<p>Enforcement of order.</p>	<p>If the guardians of a union or parish upon whom any such order is made refuse or neglect for twenty days after due notice of such order to pay the money, the money, together with the expenses of recovering it, may be recovered by action at law, or by any other proceeding in a court of competent jurisdiction (section 314 (2)). And in case of any such action or proceeding no objection may be taken to any default or want of form in any order for reception or maintenance, or in any certificate or adjudication under the Act, if such order or adjudication has not been appealed against, or if appealed against has been affirmed (section 314 (3)).</p>
<p>Payment without order.</p>	<p>The guardians upon whom an order might be made for the payment of any money may pay the same without an order, and charge it to such account as they could have done if an order had been made (section 295).</p>

11. *Appeals as to Settlement.*] If the guardians of any union or parish feel aggrieved by any order adjudging the settlement of a lunatic, they may appeal to the quarter sessions for the county or borough on behalf of which the order has been obtained, or in which the union or parish obtaining the order is situate. If the union or parish obtaining the order extends into several counties, then the aggrieved guardians may appeal to the next quarter sessions for the county or borough in which the institution for lunatics where the lunatic is or has been confined is situate. And the sessions hearing the appeal have full power upon the hearing to determine the matter (section 303). This section also gives a right of appeal on the question of irremovability. (See case cited under section 303.)

Introduct.

CHAP. V.

To what sessions guardians may appeal.

The clerk to the justices making an order adjudging the settlement, or if they have no clerk, the clerk of the peace for the county or borough to the quarter sessions whereof the appeal lies (to whom the justices making the order are in such case bound to send the depositions) must keep the depositions upon which the order was made, and must, within seven days after application by any party authorised to appeal against the order, furnish copies to the applicant on payment of twopence per folio of seventy-two words (section 304).

Copies of depositions how obtained.

No appeal may be allowed unless notice in writing of the appeal is sent or delivered by post or otherwise to the guardians or local authority obtaining the order, within twenty-one days after the copy, order, and statement of grounds of adjudication has been sent by them to the guardians of the union or parish in which the lunatic is adjudged to be settled, unless within the twenty-one days, a copy of the depositions has been applied for by the party intending to appeal, in which case a further period of fourteen days after the sending of such copy is allowed for giving notice of appeal (section 305).

Notice of appeal to be given.

With the notice of appeal, or fourteen days at least before the first day of the sessions at which the appeal is to be tried, the appellants must send or deliver by post or otherwise to the respondents, a statement in writing of the grounds of such appeal. This statement must be signed by the clerk of the guardians who are the appellants. And the appellants will not be allowed to give evidence at the hearing of any other grounds of appeal than those set forth in this statement (section 306).

Ground of appeal to be delivered.

Introduct. No omission or delay in furnishing a copy of the depositions can be a ground of appeal against the order (section 304 (3)).

CHAP. V.
What are
grounds of
appeal.

Grounds of appeal may be classed under four heads:—
(1) Objections to the respondents' proceedings; (2) Traverses of their statements; (3) Irremovability of the pauper; and (4) A subsequent settlement. The appellants may object generally that the respondents' grounds of adjudication are bad upon the face thereof,—or specially, that they are bad and defective in this, that [*stating the defect*]; but it must appear to be a defect in substance, for a defect in form may be amended as hereinafter mentioned. As to traverses of the respondents' statements, it is to be remarked that whatever part of the respondents' grounds is not denied, is to be taken to be admitted; and therefore everything in the grounds of adjudication which the appellants require to be proved by the respondents at the hearing should be traversed by the grounds of appeal. As to the irremovability of the pauper (which will be noticed more particularly hereinafter) it is a good ground of appeal, "that the said lunatic resided in the said parish of A. in the said B. union for one year next before your application for the said order." As to the statement of a subsequent settlement, care should be taken to state every fact necessary to confer the settlement, with certainty, in the same manner as in grounds of appeal against an order for removal.

Access to the
lunatic for
examination.

In every case of an appeal as to settlement the guardians, clerks of the guardians, and relieving officers of every union or parish interested in the appeal, and the clerk of every county council or town clerk of every borough interested in the appeal, and every person duly authorised by them respectively are, at all reasonable times, to be allowed free access, in the presence of the medical attendant, to the lunatic to examine him as to the premises (section 312).

Abandon-
ment of
order.

In any case in which an order adjudging the settlement of a lunatic has been made, and a copy thereof sent as above mentioned, the party who has obtained the order may, whether any notice of appeal has been given or not, or whether any appeal has been entered or not, abandon the order, by notice in writing signed by the clerk to the guardians or clerk to the county council or town clerk of the borough obtaining the order (section 311 (1)). The notice must be sent by post or delivered to the appellant or party entitled to appeal, and thereupon the

Notice of
abandon-
ment.

order and all proceedings consequent thereon are avoided, and must not be given in evidence in case any other order for the same purposes is obtained (section 311 (1)). In all cases of such abandonment the party abandoning must pay to the opposite party the costs incurred by reason of the order and of all subsequent proceedings thereon (section 311 (2)). The proper officer of the court before whom the appeal (if it had not been abandoned) might have been tried must, upon application, tax and ascertain the costs, at any time, whether the court is sitting or not, upon production to him of the notice of abandonment, and upon proof to him that such reasonable notice of taxation, together with a copy of the bill of costs, has been given to the party abandoning the order, as the distance between the parties shall in his judgment require. And thereupon the sum allowed for costs, including the usual costs of taxation, which such officer is empowered to charge and receive, must be endorsed upon the notice of abandonment, and the notice so endorsed must be filed among the records of the court (section 311 (3)).

Introduct.

CHAP. V.

Costs on
abandon-
ment.

If when the appeal is called on either party be not in a situation to proceed with it on account of the absence of a material witness or otherwise, such party may apply to the court to adjourn the appeal to another sessions, or to another day in the same sessions, upon an affidavit of the facts or by examining witnesses in open court in support of the application. It is discretionary with the justices whether they will grant the application or not.

Applications
for adjourn-
ment of
hearing.

Before the parties enter upon the appeal, the respondents may call on the appellants to prove the service of their notice and grounds of appeal; for, unless notice of appeal has been given, the appeal as already stated cannot be allowed. On the other hand, the appellants may require the respondents to prove the sending of the copy order and the statement of grounds of adjudication; for they are not allowed to go into or give evidence of any other grounds in support of the order than those set forth in the statement.

Proof of
service of
documents.

But upon the hearing of the appeal no objection whatever on account of any defect in the form of setting forth any ground of adjudication or appeal in any such statement is to be allowed, and no objection to the reception of legal evidence offered in support of any such ground alleged to be set forth in any such

What objec-
tions to
grounds not
competent.

Introduc- statement may prevail, unless the court is of opinion that such
 CHAP. V. alleged ground is so imperfectly or incorrectly set forth as to be
 insufficient to enable the party receiving the same to inquire
 into the subject, and prepare for trial (section 307 (1)). The

When deci- decision of the court upon the sufficiency and effect of the
 sion on objec- statement of grounds in support of the order or of the appeal is
 tion to grounds final. final, and not liable to be reviewed in any court by means of a
 writ of *certiorari* or *mandamus* or otherwise (section 310).

Amendment of grounds of adjudication and appeal. And in all cases where the court is of opinion that any
 objection on account of any defect in the form of setting forth
 any ground of adjudication or appeal in any such statement, or
 any objection to the reception of legal evidence offered in
 support of any such ground alleged to be set forth in any such
 statement ought to prevail, the court may, if it thinks fit, cause
 any such statement to be forthwith amended by some officer of
 the court or otherwise, on such terms as to payment of costs
 to the other party, or postponing the trial to another day in the
 same sessions, or to the next subsequent sessions, or both pay-
 ment of costs and postponement, as to the court appears just
 (section 307 (2)). And the decision of the court upon the
 amending or refusing to amend the statement of grounds is
 final, and not liable to be reviewed in any court by means of a
 writ of *certiorari* or *mandamus* or otherwise (section 310).

Amendment of order of justices. If upon the trial of the appeal any objection is made on
 account of any omission or mistake in drawing up the order,
 and it is shown to the satisfaction of the court that sufficient
 grounds were proved before the justices making the order to
 authorise the drawing up thereof free from the omission or
 mistake, the court may, upon such terms as to payment of
 costs as it thinks fit, amend the order, and give judgment as if
 no omission or mistake had existed (section 308 (1)). The
 decision of the court upon the sufficiency and effect of the copy
 order sent to the appellant, and upon the amending or refusing
 to amend the order, is final, and not liable to be reviewed in any
 court by means of a writ of *certiorari* or *mandamus* or otherwise
 (section 310).

Course of proceedings on hearing of appeal. If the appellants in their notice of appeal deny any part of
 the grounds of adjudication which were sent to them by the
 respondents, the respondents begin; their counsel states their
 case and produces evidence or calls witnesses to prove all that
 is so denied. When the respondents' counsel has closed his

case, the appellants' counsel either controverts such case by observations and argument, or if he be satisfied to rest his case there, the case on both sides is closed ; or he opens a new case and calls witnesses, in which case the respondents will be entitled to the general reply. Or, if the respondents' counsel wishes to call witnesses in disproof of any new settlement set up by the appellants he may do so. In that case the appellants' counsel has a right again to address the court, confining his observations to the testimony of the witnesses so called ; and the respondents' counsel is then entitled to the general reply.

Introdut.
CHAP. V.

If, however, the appellants do not deny any part of the grounds of adjudication, as these grounds are thereby impliedly admitted, it is unnecessary for the respondents to go into their case, or to call witnesses in support of it, so the appellants begin, and their counsel states their case as to any subsequent settlement stated in their grounds of appeal, or objects to the order for defects appearing on the face of it, if that be one of the grounds of appeal. The like order is then observed as is above mentioned, the appellants' counsel being entitled to the general reply if the respondents' counsel call witnesses.

On the trial of the appeal the order of adjudication cannot be quashed or set aside, either wholly or in part, on the ground that the depositions do not furnish sufficient evidence to support, or that any matter therein contained or omitted raises an objection to the order or the grounds on which the same was made (section 304 (4)).

On what
grounds
adjudication
cannot be
quashed.

The court hearing the appeal have full power finally to determine the matter (section 303). The judgment simply is that the order be confirmed or quashed. Costs, when given, form part of the judgment.

Judgment
on appeal.

The court may order the party against whom the appeal is decided to pay to the other such costs and charges as may to the court appear just, and the court must certify the amount thereof (section 309 (1)). If either of the parties has included in the statement of grounds of adjudication or appeal sent to the opposite party any grounds in support of the order or of the appeal which in the opinion of the court are frivolous and vexatious, such party is liable, at the discretion of the court, to pay the whole or any part of the costs incurred by the other party in disputing any such grounds (section 309 (2)).

Costs on
appeal.

Introduct.

CHAP. V.

Chargeability
of irremov-
able paupers.

No order on
union of
settlement.

Union of
chargeability
liable for
expenses of
removal,
discharge,
and burial.

Justice's
order for
seizure o
lunatic's
property.

12. *Expenses of Irremovable Pauper Lunatics.*] All incidental expenses and expenses of maintenance of a lunatic removed to an institution for lunatics who would at the time of his removal have been exempt from removal to the parish of his settlement or the country of his birth by reason of some provision of the Poor Removal Act, 1846, as amended by subsequent Acts, must be paid by the guardians of the union or parish wherein the lunatic has acquired such exemption (section 294).

No order may be made in respect of any such lunatic under any provision contained in the Lunacy Act, 1890, or any other Act, upon the guardians of the union in which the lunatic is settled, while the above-mentioned expenses are to be paid and charged as above provided (section 294).

13. *Expenses of Removal, Discharge, and Burial.*] The necessary expenses attending the removal, discharge, or burial of a pauper lunatic in any institution for lunatics must be borne by the union or parish to which he is chargeable, or by the council of the county or the town council of the borough liable for his maintenance, and must be paid by the guardians of the union or parish or by the treasurer of the county council or town council (section 297). Where the union to which the lunatic is chargeable is not in the county or borough to which the asylum belongs, but the lunatic has been admitted in pursuance of a resolution of the visiting committee under section 270, the resolution may require the guardians to undertake to pay for his removal or burial as well as for his maintenance (section 270).

14. *Recovery of Expenses against Lunatic's Estate.*] If it appear to any justice that a lunatic chargeable to any union or parish, or county council or town council, has any real or personal property more than sufficient to maintain his family (if any), such justice may by order direct a relieving officer of the union or parish, or the treasurer or some other officer of the county or town council, to seize so much of any money, and to seize and sell so much of any other personal property of the lunatic, and to receive so much of the rents of any land of the lunatic, as the justice may think sufficient to pay the expenses of maintenance and incidental expenses respectively incurred or to be incurred in relation to such lunatic (section 299 (1)).

If any trustee, or the Bank of England, or any other society or person having possession of any property of a lunatic, pays or delivers to a relieving officer of a union or parish, or to the treasurer or other officer of a county council or town council to which respectively the lunatic is chargeable, any money or other property of the lunatic to repay the charges above mentioned, whether pursuant to such an order as above described or without such an order, the receipt of such relieving officer, treasurer, or other officer is a good discharge (section 299 (2)).

Introduc.
CHAP. V.
Indemnity for
trustees.

Where any pauper is entitled to any annuity or other periodical payment (not being money which he is entitled to receive as a member of any friendly or benefit society), the trustee or other person bound to make payment to the pauper may from time to time pay to the guardians, out of instalments which have become due, the cost incurred in the relief of the pauper since the last instalment, and such payment is a legal discharge to the trustee or other person for the money so paid. Where a pauper or pauper lunatic is entitled to receive money as a member of a friendly or benefit society and has no wife or other relative dependent upon him for maintenance, the guardians may recover as a debt from him, or in case of his death from his personal representatives, the amount of any expenses incurred in relieving him if such relief has been declared to be given on loan, and so notified within thirty days of such declaration to the secretary or trustees of the society. And if these conditions precedent have been fulfilled the managing body of the society must, on notice from the clerk to the guardians, pay over the money to them, and are exonerated from further liability. But if the society refuse to make payment the guardians may apply to the petty sessions for an order to pay the amount then due at once, and to pay from time to time in future as the liability in respect of relief arises (39 & 40 Vict. c. 61, s. 23; 42 Vict. c. 12, s. 1).

Recoupment
of guardians
from period-
ical payments
due to
lunatic.

An order may be made by a county court judge upon an application by the guardians of any union or parish for payment of the expenses incurred by them under the Act in relation to a lunatic, and such order may be enforced against any property of the lunatic in the same way as a county court judgment (section 300).

Orders by
county court
judges.

Introduct. Where any pauper has in his possession or belonging to him any money or valuable security for money, the guardians of the union or parish within which he is chargeable may take and appropriate so much of the money or the produce of the security, or recover the same as a debt before any local court, as will reimburse them for the amount expended in the relief of the pauper during the preceding twelve months (12 & 13 Vict. c. 103, s. 16).

CHAP. V.
Appropriation of money in personal possession of pauper.

Appeal against refusal of justice's order.

15. *Appeal against Refusal of Order by Justices.*] Any person aggrieved by the refusal of an order by any justice or justices as to any matter within the jurisdiction of a justice or justices under Part X. of the Act (*i.e.*, orders as to medical fees and other expenses, orders as to settlement, and orders as to application of property) may appeal to a court of quarter sessions upon giving to the justice or justices against whom the appeal is made fourteen clear days' notice of appeal. The determination of the court upon the appeal is final (section 301).

Annual returns by clerks to guardians.

16. *Annual Returns as to Chargeable Lunatics.*] The clerk of the board of guardians of every union and separate parish must, on the 1st January in every year, or as soon after as possible, make out and sign a complete list, made up to that date, of all lunatics chargeable to the union or parish, and must, on or before the 1st February following, send a copy (*a.*) to the Local Government Board; (*b.*) to the Commissioners in Lunacy, now the Board of Control; (*c.*) to the committee of visitors of the asylum of the county or borough, or each county or borough, in which the union is wholly or partly situate; and (*d.*) to the clerk of the local authority within the area whereof the union or parish is wholly or partly situate, to be laid before the local authority (Commissioners' Rules, 26th June, 1895. R. 33).

CHAPTER VI.
LUNACY REGULATION.

Introduct.
CHAP. VI.

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| <ol style="list-style-type: none"> 1. <i>The Judge in Lunacy.</i> 2. <i>The Masters.</i> 3. <i>The Chancery Visitors.</i> 4. <i>Application and Order for Inquisition.</i> 5. <i>Inquisition and Trial of Issue.</i> 6. <i>Traverse and New Trials.</i> 7. <i>Proceedings after Inquisition.</i> 8. <i>Commitment of the Person.</i> 9. <i>Visits and Reports by Chancery Visitors.</i> 10. <i>Reception Orders.</i> 11. <i>Commitment of Estate.</i> 12. <i>Receiver appointed for some specified purpose (not as quasi-committee).</i> | <ol style="list-style-type: none"> 13. <i>Allowance for Maintenance.</i> 14. <i>Extent of Powers as to Property and appointment of Receiver as quasi-committee.</i> 15. <i>Administrative Powers.</i> 16. <i>Powers of County Court Judge.</i> 17. <i>Vesting Orders.</i> 18. <i>Orders and Certificates.</i> 19. <i>Percentages and Fees.</i> 20. <i>Supersedeas or Discharge of Receiver.</i> 21. <i>Death of Lunatic.</i> 22. <i>Costs.</i> |
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1. *The Judge in Lunacy.*] The jurisdiction of the Judge in Lunacy under the Act is to be exercised by the Lord Chancellor for the time being entrusted by the royal sign manual with the care and commitment of the custody of the persons and estates of lunatics. acting alone or jointly with any one or more of the judges of the Supreme Court similarly entrusted for the time being, or by any one or more of such judges so entrusted (section 108). The Judge in Lunacy.

2. *The Masters in Lunacy.*] The Masters are appointed by the Lord Chancellor, and must be barristers of at least ten years' standing. They must make a declaration before being capable of acting, and may have such clerks and officers as the Lord Chancellor, with the concurrence of the Treasury, determines. The salaries of the Masters, their clerks, and officers, and their expenses to the amount sanctioned by the Treasury are payable out of Parliamentary votes (section 111). The Masters for the time being are by virtue of their office visitors of lunatics so found, jointly with the Chancery Visitors (section 166). Masters in Lunacy.

3. *The Chancery Visitors.*] The Chancery Visitors, two medical and one legal, are appointed by the Lord Chancellor, Chancery visitors.

IntroducT. who may, whenever a vacancy occurs, appoint a medical practitioner in actual practice to succeed a medical visitor, and a barrister of not less than five years' standing to succeed a legal visitor (section 163). No one may be appointed who is or has been within two years previously interested in a licensed house, and the subsequent acquisition of such an interest avoids the appointment (section 165). The Chancery Visitors may be removed by the Lord Chancellor for misconduct, neglect, or disability, and must not practise their respective professions whilst holding office (section 164). In case of temporary illness or absence a Chancery Visitor may, with the approval of the Lord Chancellor, appoint a substitute, who must be qualified as if for actual appointment (section 168). The Visitors may have such clerks and officers as the Lord Chancellor, with the concurrence of the Treasury, may determine, and their salaries and those of their clerks and officers and their expenses to the amount sanctioned by the Treasury are payable out of Parliamentary votes (section 163 (3), (4)). The Visitors and the Masters, to the number of not less than three, must form themselves into a board from time to time for mutual guidance in the visiting of lunatics, and as a board may report to the Lord Chancellor upon their own duties and those of the Chancery Visitors only (section 167). Besides lunatics so found, the Chancery Visitors may be called upon to visit such lunatics (for the management of whose estates, a receiver has been appointed under section 116) as have been placed upon the list for visitation by the Masters. The Chancery Visitors must also at the end of every six months report to the Lord Chancellor the number of visits made, the number of patients seen, and the number of miles travelled during such months, and must on every 1st January make a return to the Lord Chancellor of all sums received by them for travelling expenses, or upon any other account, and copies of all such reports and returns must be laid before Parliament (section 184).

CHAP. VI.

Board of
visitors.

Half-yearly
reports.

Effect of
Lunacy Act,
1908.

The operation of the Lunacy Act, 1908 (section 1), which gives to a Receiver appointed under section 116 of the principal Act, powers, which formerly were discharged by the Committee of the Estate, has, as a direct result, considerably reduced the number of lunatics "so found."

Proceedings for obtaining control over a lunatic's estate, are now almost invariably taken by means of a receiver, in accordance

with one of the headings of sub-section one of the hundred and sixteenth section. Introduct.

If it is desired to appoint a Committee of the Person, it is still necessary to proceed for an inquisition, as under section 116, no person can be appointed with powers and duties which exactly coincide to those of a Committee of the Person.

During the last few years, the diminution in the numbers of lunatics "so found," will readily be appreciated by a glance at the following figures :—

Year.	No. of Inquisitions.			
1911	4
1912	5
1913	Nil.

On 1st October, 1913, there were on the books of the Masters for permanent visitation, 549 patients, of whom 475 were inquisition cases, and 74 were cases under section 116. Since October, 1913 (these figures were made up in May, 1914), 17 inquisition cases have died, but there has been an increase in cases for requests for *special visitation* under section 116, the numbers of these latter cases from 1905 to 1913, were as follows :—

1905—42	1908—150	1911—316
1906—47	1909—208	1912—287
1907—114	1910—200	1913—293

4. *Application and Order for Inquisition.*] The Judge in Lunacy may, upon application, by order direct an inquisition whether a person is of unsound mind and incapable of managing himself and his affairs (section 90 (1)). The application for an order for inquisition shall be made by petition (R. L. 1892, R. 16). The petition should be in the Form 4 in the Schedule to the Rules in Lunacy, 1892, with such variations as the circumstances require (R. L. 1892, R. 9). The petition shall be signed by the petitioner and attested by a solicitor (R. L. 1892, R. 16). Every petition for an order for inquisition and the evidence in support thereof shall be filed in the Master's office (R. L. 1892, R. 18). Where the alleged lunatic is within the jurisdiction he shall have notice of the application (section 90 (2)). The notice to an alleged lunatic of a petition for an

Private application for inquisition.

Introduct. order for inquisition shall be by service on him of a copy of the petition with a notice thereon endorsed signed by the petitioner or a solicitor. Such notice shall be in the Form 5 in the Schedule to the Rules in Lunacy, 1892, or to the like effect (R. L. 1892, R. 26). Such notice shall be served on the alleged lunatic by being delivered to him personally, or where personal service cannot be effected or is inexpedient, which in the case of lunacy may often be, as being prejudicial to the health of the lunatic, then by being delivered to some adult inmate at the dwelling-house or usual or last known place of abode of the alleged lunatic within the jurisdiction, and an affidavit of service stating particularly the time, place, and mode of service, and where there has not been personal service, the grounds of such service not having been made, shall be filed with the Masters (R. L. 1892, R. 29). If the substituted service is by reason of personal service being prejudicial to the lunatic as above mentioned, medical evidence to that effect should be adduced. Where the alleged lunatic is not within the jurisdiction it shall not be necessary to give him notice of the application for inquisition (section 96).

Application
for inquisition
by
report of
Commissioners.

Where the Commissioners to the Board report to the Lord Chancellor that they are of opinion that the property of any person detained or taken charge of as a lunatic, but not so found by inquisition, is not duly protected or that the income thereof is not duly applied for his benefit, or to the same effect, the report shall be filed with the Masters, and shall be deemed to be an application for inquisition supported by evidence, and the alleged lunatic shall have notice of the report from such person as the Judge in Lunacy directs (section 100). The notice shall be in the Form 6 in the Schedule to the Rules in Lunacy, 1892, or to that effect (R. L. 1892, R. 27). The notice must be served like a notice of a private application (R. L. 1892, R. 29, above cited). And the case shall proceed and be conducted as nearly as may be in all respects as is directed by the Acts upon an application for an inquisition (section 100), but a petition for inquisition is not required (R. L. 1892, R. 16).

Application
for inquisition
by direction
of
Masters.

Upon any application under section 116 of the Lunacy Act, 1890, the Masters may, if they consider it desirable for the care of the person or for the management of the estate or otherwise in the interest of any lunatic or alleged lunatic, direct such person as they think fit to present a petition for an order for

inquisition as to the lunatic or alleged lunatic, and if such direction is not complied with within ten days or such further time as the Masters allow, the Masters may direct such petition to be presented by the official solicitor, and the official solicitor shall present the same accordingly (R. L. 1893, R. 1).

Introduct.
CHAP. VI.

Where the alleged lunatic is within the jurisdiction he is entitled to demand an inquiry before a jury (section 90 (2)). The demand may be made either by notice filed with the Masters at any time before the consideration of the petition, or by the alleged lunatic in person or his counsel or solicitor upon such consideration (R. L. 1892, R. 30). The notice should be in the Form No. 7 in the Schedule to the Rules in Lunacy, 1892 (R. L. 1892, R. 9). The notice shall be signed by the alleged lunatic and attested by a solicitor (R. L. 1892, R. 30). Upon the hearing of the application the alleged lunatic may withdraw any such demand made by him (section 90 (2), (3)). Where the alleged lunatic is not within the jurisdiction the inquiry must necessarily be held before a jury (section 96).

Demand of
jury.

Every petition for an order for inquisition shall be brought before the Judge without previous consideration by the Masters (R. L. 1892, R. 18). No order shall be made on any such petition until after the expiration of seven clear days from service upon the alleged lunatic (if within the jurisdiction) of notice of the petition (R. L. 1892, R. 28). Where the alleged lunatic demands a jury, the Judge in Lunacy is bound in his order for the inquisition to direct the return of a jury, unless he is satisfied by personal examination of the alleged lunatic that he is not mentally competent to form and express a wish for an inquisition before a jury; and the judge may where he deems it necessary and for the purpose of personal examination require the alleged lunatic to attend him at such convenient time and place as he may appoint (section 91). Wherever the Judge in Lunacy orders an inquisition before a jury, he may by his order direct an issue to be tried in the High Court, and the question in such issue must be whether the alleged lunatic is of unsound mind and incapable of managing himself or his affairs (section 94 (1)). Where the alleged lunatic does not demand a jury or the Judge in Lunacy is satisfied by personal examination that he is not mentally competent to form and express a wish in that behalf, and it appears to the Judge upon consideration of the evidence and the circumstances of the case to be

Hearing of
application
and order
thereon.

Introd. unnecessary or inexpedient that the inquisition should be before a jury, he need not in his order for inquisition direct the return of a jury, and the inquiry takes place before the Masters without a jury (section 92). But if upon consideration of the evidence the Masters certify that in their opinion an inquisition before a jury is expedient, they must, without further order, issue their precept to the sheriff, and proceed in like manner in all respects as if the Judge had directed the return of a jury in the first instance (section 93).

CHAP. VI.

Proceedings
on inquiry
or trial of
issue.

5. *Inquisition and Trial of Issue.*] In each case of alleged lunacy concerning which the Judge in Lunacy orders them to inquire the Masters proceed by virtue of the general commission of inquiry, directed to them by name jointly and severally, which may from time to time with such variations as may seem expedient be issued in duplicate under the Great Seal (section 112). The Lord Chancellor may also in his discretion issue special commissions to any person or persons alone or in addition to the Masters (section 113). The person executing an inquisition (whether with or without a jury) shall, while so employed, have all the powers, authority, and discretion of a judge of the High Court (section 99 as amended by the Act of 1891). The Masters are specially empowered to administer any oath and take any affidavit and summon any person to give evidence before them, and every person so summoned is bound to attend as required by the summons (section 114).

In every case the inquisition or trial of the issue must be confined to the question whether or not the alleged lunatic is at the time of the inquisition or trial of unsound mind and incapable of managing himself or his affairs, and no evidence as to anything done or said by him, or as to his demeanor or state of mind at any time, being more than two years before the time of the inquisition or trial, is receivable in proof of insanity unless the person executing the inquisition so directs (section 98). If the inquiry be before a jury or on the trial of an issue, the Lord Chancellor may by order regulate the number of jurors to be sworn, but so that every inquisition upon the oath of a jury or verdict on the trial of an issue be found by the oaths of twelve men at least (section 97). And the alleged lunatic shall, if he is within the jurisdiction, be examined before

the evidence is taken, and at the close of the proceedings before the jury consult as to their verdict, unless the Masters in the case of an inquisition, or the Judge who tries the issue in the case of a trial of an issue, otherwise directs ; and such examinations shall take place either in open court or in private as the Masters, or Judge, as the case may be, direct or directs (section 94 (2), Act of 1891, s. 26 (1)). If the inquiry be before the Masters without a jury, the Masters shall personally examine the alleged lunatic before and at the close of the proceedings, and take such evidence upon oath or otherwise, and call for such information as they think fit, or as the Judge directs, in order to ascertain whether or not the alleged lunatic is of unsound mind (section 92, and Act of 1891, s. 26 (1)). And the Masters may make orders for the attendance of an alleged lunatic at such time and place as the order directs, for examination by the Masters or by a medical practitioner, and such order may be enforced in the same way as an order of a Judge of the High Court (Act of 1891, s. 26 (2)). If upon the inquisition it appears that the alleged lunatic is of unsound mind so as to be incapable of managing his affairs, but that he is capable of managing himself and is not dangerous to himself or others, it may be so specially found and certified (section 98). The verdict upon the trial of an issue finding the alleged lunatic to be of unsound mind and incapable of managing himself or his affairs shall have the same effect as an inquisition (section 94 (1)). On the execution of an inquiry without a jury the Masters shall certify their finding thereon (section 92). And where the Masters certify that the alleged lunatic is of unsound mind and incapable of managing himself or his affairs, or that he is of sound mind and capable of managing his affairs, the certificates shall have the same effect as an inquisition taken upon the oath of a jury (section 95).

6. *Traverse and new Trials.*] Any person desiring to traverse Traverse.
an inquisition, not being a verdict upon an issue tried in the High Court, may, within three months next after the day of the return of the inquisition, apply for that purpose to the Judge in Lunacy (section 101 (1)). The application must be made by petition (Rule in Lunacy, dated 29th October, 1900) ; and the petition with the evidence in support thereof must be filed in the Masters' office and brought before the Judge without

- Introduct.** previous consideration by the Masters (R. L. 1892, R. 18).
CHAP. VI. The Judge shall hear and determine the application, and shall in his order for a traverse limit a time, not exceeding six months from the date of the order, within which the parties must proceed to trial. And the Judge may order the traverser, not being himself the object of the inquisition, to give security for proceeding to trial (section 101). Persons not applying for a traverse within the three months, or not giving security, or not proceeding to trial within the appointed time are absolutely barred of the right to traverse, unless the Judge extends the time, which he may do under special circumstances and upon such terms as he may think just (section 102). On the trial of the traverse no evidence as to anything said or done by the alleged lunatic or as to his demeanor or state of mind at any time more than two years before the inquisition is receivable, unless the person executing the inquisition otherwise directs (section 98). And if the Judge in Lunacy is dissatisfied with the verdict on a traverse he may order a new trial or more than one new trial; but no person may traverse oftener than once (section 103).
- Trial.**

A traverse of a verdict upon an issue tried in the High Court is not allowed, but the Judge in Lunacy on an application within three months after trial of the issue may in his discretion order a new trial, or a new inquisition, upon such conditions as he thinks fit (section 104).

General
inquiries
before
Masters on
inquisition
found.

- 7. *Proceedings after Inquisition.***] Immediately after inquisition found, the party having the conduct of the proceedings must take out a summons before the Masters to inquire into—
- (a.) The lunatic's age, position in life, and residence;
 - (b.) The nature of his lunacy;
 - (c.) (Subject to the provisions referred to) who are his next-of-kin and heir-at-law;
 - (d.) Who ought to be appointed committee of his person and of his estate;
 - (e.) Of what his property consists, and the particulars thereof;
 - (f.) The amount of his income;
 - (g.) In what manner, and at what expense, and by whom, and where he has been maintained; what should be allowed for his past maintenance; what if anything

is due, and to whom in respect thereof; and to whom, and out of what fund the same ought to be paid; Introduct.
CHAP. VI.

- (h.) What should be allowed for future maintenance, when the allowance ought to commence, and out of what fund it should be paid (R. L. 1892, R. 31).

With regard to the inquiry as to the next-of-kin and heir-at-law, where an order is made exempting the property of a lunatic from payment of fees, the Masters shall not, during the continuance of the exemption, inquire respecting his next-of-kin and heir-at-law unless they think it expedient (R. L. 1892, R. 36). The Masters may also in any case defer an inquiry respecting next-of-kin and heir-at-law, or carry on the inquiry to such limited extent only and under such restrictions as they think expedient, and they may direct that persons claiming to be next-of-kin or heir-at-law be left to make out their own claim at their own expense, and may in any case, if they think it expedient, wholly dispense with the inquiry (R. L. 1892, R. 37). Where the Masters are of opinion that it is expedient that strict proof of pedigree should not be gone into, they may dispense with the same to such extent and in such manner as they think fit, and may require and receive such evidence as they think sufficient respecting the family and next-of-kin or heir-at-law (R. L. 1892, R. 38).

The Masters may make such order on the general summons for inquiries as they may think expedient (R. L. 1892, R. 32).

Moreover, the Masters may, when it seems to them expedient, inquire into what undisputed debts, if any, are due from the lunatic, and to whom and whether the same or any of them ought to be paid, and out of what property, and they may make orders for the settlement or payment thereof, and for the compromise of any disputed claim against the lunatic or his estate (R. L. 1892, R. 33). And they may make such inquiries as they think fit respecting any dealings with the lunatic's estate and the application of the same prior to the date of the inquisition, and respecting the state and condition of the lunatic at the time of such dealings, whether a summons for such inquiry is pending before them or not (R. L. 1892, R. 34). And they may inquire whether any person resident out of the jurisdiction has by the law of the place where such person resides been found or declared a lunatic, and whether his estate or any part thereof

Inquiry as to
next-of-kin
and heir-at-
law.

Orders on
general
inquiries.
Special
inquiries.

Introduct. has been vested in a curator or other person appointed for the management thereof according to such law, and whether or not any property within the jurisdiction is vested in the lunatic, and what is his interest therein (R. L. 1892, R. 35).

CHAP. VI.

Attendance. The Masters may dispense with and disallow the attendance on the proceedings of the heir-at-law or of all or any of the next-of-kin, either wholly or except at their own expense, or except upon special leave first obtained, and such notice only of attending the proceedings shall be given as the Masters shall direct (R. L. 1892, R. 39). Subject to the provisions of these Rules the Masters shall once in the matter of each lunatic so found by inquisition, and may as often as they think it expedient, determine which, if any, of the next-of-kin, and what other persons, if any, are to attend the proceedings or any particular proceeding, and only those persons (if any) to whom the Masters have given leave to attend shall be entitled to notice of or be allowed to attend on any proceeding at the cost of the estate, except by special leave first obtained (R. L. 1892, R. 40). Where an infant being one of the next-of-kin has no guardian, the Masters may appoint a proper person to be his guardian for the purposes of the lunacy, and the person so appointed shall have the same powers, authorities, and discretion as a guardian *ad litem* appointed by the Chancery Division of the High Court. And the Masters may revoke any such appointment and appoint another person to be guardian (R. L. 1892, R. 41). The Masters may direct that several parties appearing before them by different solicitors shall appear by the same solicitor, or that several parties appearing before them by the same solicitor shall appear by different solicitors. Where parties, directed to appear by the same solicitor, cannot agree upon the solicitor to represent them, the Masters may nominate the solicitor; and if any of such parties insists upon appearing by a different solicitor he shall do so at his own expense (R. L. 1892, R. 43).

Consolidation of proceedings and user of evidence in other matters.

The Masters, if it seems to them expedient, may consolidate and carry on together similar proceedings before them in the matters of several persons being members of the same family, and may in any case use in the matter of one member of a family evidence filed in the matter of any other member of the same family (R. L. 1892, R. 42), and in such cases, where duplicate evidence is deemed to be unnecessary, as being

capable of being applied to both members of the family, costs for the duplicate evidence will be disallowed. Introduct.

The Masters may receive any deed or security belonging to a lunatic, and may by order or certificate give liberty for payment or transfer into court of any money or stock belonging to a lunatic (R. L. 1892, R. 44). Any person, in whose custody or control any testamentary paper of the lunatic is, shall be at liberty to deposit the same in the office of the Masters upon oath, as they may direct, there to remain for safe custody (R. L. 1892, R. 45). CHAP. VI.
Deposit of
documents
and will.

8. *Commitment of the Person.*] After inquisition found, the Judge in Lunacy may make an order for the commitment of the custody of the person, and that notwithstanding the pendency of proceedings for a traverse or new trial, and every person acting upon such order is to be fully indemnified (section 108 (2), (4)). But where upon the inquisition it is specially found or certified that the person to whom the inquisition relates is of unsound mind so as to be incapable of managing his affairs, but that he is capable of managing himself, and is not dangerous to himself or to others, it shall not be necessary, unless in the discretion of the Judge it appears proper to do so, to make any order as to the custody or committal of the person of the lunatic (section 108 (3)). Every order as to the custody of the person takes effect immediately (section 108 (2)). In the choice of a committee, relations are preferred to strangers, unless there is a specific objection, and their interest is not regarded, the object being to appoint the person who will make the best provision for the lunatic's care and comfort. Where it appears that several persons ought to be appointed committees of the person, and that it is expedient that one or more of such persons should continue to act after the death or discharge of the other or others, the order appointing the committees may direct that the custody of that person shall continue to the surviving or continuing committees or committee (R. L. 1892, R. 69). On the death or discharge of a committee, or one of several committees where the custody does not survive, the Master may inquire whether it is expedient that a fresh appointment should be made, and may make an appointment accordingly (R. L. 1892, Rr. 79, 80). All orders for the appointment of committees shall be deemed to take effect only until further Appointment
of committee
of person.

Introduct. order (R. L. 1892, R. 116). The committee of the person is not required to give security.

CHAP. VI.

Duties of
committee of
person.

The Masters shall inform the committees of the persons upon their appointment of the annual amount allowed for the maintenance of the lunatic, or shall supply them with a copy of the scheme for maintenance where a scheme has been provided (R. L. 1892, R. 106). Each committee of the person shall annually or from time to time and as often as may be required of him, render to the Board of Visitors an accurate statement in writing of the various sums expended by him, the better to enable the Visitors to ascertain and report whether the lunatic is being suitably maintained, and whether any additional comforts can be provided for him. But the Visitors may dispense wholly or partially with these requirements if in any case they think it desirable so to do (R. L. 1892, R. 107). Each committee of the person shall half-yearly make a report to the Board of Visitors as to the mental and bodily health of the lunatic. If there is a medical attendant of the lunatic, such medical attendant shall either countersign the report of the committee or shall make a separate report which shall accompany that of the committee or be forwarded direct to the Board of Visitors (R. L. 1892, R. 108). The Board may summon the committee of the person to attend before them and to give such information in his possession relating to the lunatic as they may require (R. L. 1892, R. 109). Every committee of the person of a lunatic so found by inquisition shall, within three days after any change shall have taken place in the residence of the lunatic, send by post to the office of the Visitors of Lunatics, Royal Courts of Justice, London, notice thereof, with the address of the place to which the lunatic has been removed (R. L. 1893, R. 11).

Medical
reports.

The medical attendant of every lunatic, so found, is required to send to the Masters, at periods set forth in the Act, a report as to the mental and bodily condition of the patient, with a certificate under his hand, if it is the fact, that the patient is still of unsound mind, and a proper person to be detained under care and treatment. If such report is not sent the Masters must inquire into the omission, and unless they are satisfied that the lunatic is still of unsound mind, the order for commitment of the person expires; but this does not affect the commitment of the estate. A Master may, however, extend the time for sending in the report and certificate in any case for not more

than six months, and meanwhile the order for commitment of the person continues in force. But when any order for commitment has determined for want of a report and certificate being sent, the Masters must forthwith give notice to the committee of the person, and also to the person under whose care the lunatic is (section 115).

Introduct.
CHAP. VI.

9. *Visits and Reports by Chancery Visitors.*] Lunatics so found must be visited by the Chancery Visitors as the Rules in Lunacy, or any special order of the Judge in Lunacy in any particular case, direct, subject to the proviso that every lunatic must be personally visited and seen by one of the Chancery Visitors twice a year at least, at intervals not exceeding eight months between successive visits, and that every lunatic resident in a private house must be visited at least four times a year during the two years next following inquisition (section 183).

Visitation by
Chancery
Visitors.

Any person who obstructs any Chancery Visitor in the exercise of the powers conferred by this Act renders himself liable to a penalty not exceeding fifty pounds for each offence, and is also guilty of a misdemeanor (section 321).

After each visit the Chancery Visitors must make a report of the state of mind, bodily health, general condition, and care and treatment of the person visited, which reports must be submitted to the Lord Chancellor annually, or oftener, as he directs, or as the Board of Visitors think expedient (section 185 (1)). And, in any case, they may make separate or special reports to the Lord Chancellor, and, in particular, must report without delay any instance in which, on proceeding to visit, they have been unable to discover the residence of, or otherwise prevented from actually seeing the lunatic (section 185 (2)). The reports of the Chancery Visitors must be filed and kept secret in their office, and not be open to inspection except by the members of the Board of Visitors and the Judge in Lunacy, and such persons as he specially appoints. And all the reports relating to any particular patient must be destroyed on his death, or on the inquisition being superseded, or being vacated and discharged on a traverse, unless the Judge in Lunacy, within fourteen days after the vacating and discharge, or after the *supersedeas*, specially orders the reports not to be destroyed until the lunatic's death (section 186).

Introduct. **10. *Reception Orders.***] A lunatic so found may be received into an institution for lunatics, or as a single patient, upon an order signed by the committee of the person, with an annexed office copy of the order appointing the committee; or if no committee has been appointed, then upon an order signed by a Master (section 12).

CHAP. VI.
Reception
Order by
committee.

Order for
custody of
estate.

11. *Commitment of Estate.*] After inquisition found, the Judge in Lunacy may make orders for the management of the lunatic's estate, and that notwithstanding the pendency of proceedings for a traverse or new trial. Any person acting upon an order for the management of the estate during the pendency of proceedings for a traverse or new trial is to be fully indemnified in case the result is to establish the sanity of the alleged lunatic. On a special verdict or certificate that the object of the inquisition is of unsound mind, so as to be incapable of managing his affairs, but capable of managing himself, and not dangerous to himself or to others, the Judge in Lunacy may make such orders as he thinks fit for the commitment and management of the estate, including all proper provisions for the maintenance of the lunatic, although it is not necessary to make any order for the commitment of the person, unless in the discretion of the Judge it appears proper to do so (section 108).

Subject to rules in lunacy, the jurisdiction of the Judge in Lunacy, as regards administration and management, may be exercised by the Masters (Act of 1891, s. 27 (1)).

Appointment
of committee
of estate.

Where it appears that several persons ought to be appointed committees of the estate and that it is expedient that one or more of such persons should continue to act after the death or discharge of the others or other, the order appointing the committees may direct that the custody of the estate shall continue to the surviving committees or committee (R. L. 1892, R. 69). All orders for the appointment of committees shall be deemed to take effect only until further order (R. L. 1892, R. 116). The committee of the estate is not usually allowed any remuneration or salary.

Security of
committee of
estate.

Every order for the custody of the estate shall take effect upon the Masters' certificate of completion of the committee's security (section 108 (2)). Where it is ordered that a person named be appointed committee of the estate, the order shall be deemed to take effect only on the Master's certifying that

he has given such security as has been approved for answering the estate and accounting for the rents, profits, and produce thereof once in every year, or oftener if required, before the Masters ; and such security shall be perfected at or within such time as the Masters appoint, and until such security shall be perfected the approved committee shall not, unless otherwise ordered, interfere in any manner in the affairs of the lunatic as the committee of his estate or otherwise. And the Masters shall inform the Paymaster-General when such security has been perfected (R. L. 1892, R. 117).

Introduct.

CHAP. VI.

The Masters shall approve the security to be given by the committee of the estate. Such security may be reduced on request to an amount corresponding in the judgment of the Masters with the condition of the property of the lunatic and the income thereof. The Masters may also require the security of the committee of the estate to be increased if in their judgment the circumstances of the case render it desirable (R. L. 1892, R. 70). The security of a committee used formerly to be always by bond entered into with two sureties, but now the Masters may authorise the committee of the estate to give security in the whole or in part by bringing into court a sufficient sum of money or stock, and they may for that purpose by order give liberty for payment or transfer into court of any money or stock, and direct how the money is to be invested and the dividends applied, and the Paymaster-General shall give effect to every such order (R. L. 1892, R. 71). If the security be by bond the committee of the estate shall on each occasion of passing his account and also whenever the Masters so require, satisfy the Masters that his sureties are living, and that neither of them has been adjudicated bankrupt or compounded with his creditors, and in default thereof the Masters shall require him to enter into fresh security within such time as they fix (R. L. 1892, R. 75). Where a committee enters into a fresh security, upon the same being duly perfected, and upon the balance then due by the committee being paid or secured to the satisfaction of the Masters, the former security shall be discharged (R. L. 1892, R. 72).

Approval
of security.

On default of a person approved to be committee of the estate in duly perfecting his security or in duly perfecting a fresh security when required by the Masters, the Masters shall inquire whether or not it is expedient that a new committee

Introduct. should be appointed (R. L. 1892, R. 79). And if it appears that a new committee ought to be appointed, the Master may make an order appointing a proper person to be such new committee accordingly (R. L. 1892, R. 80).

CHAP. VI.

Accounts of
committee of
estate.

The committee of the estate shall annually, or at such longer or shorter periods as the Masters fix, deliver his accounts or affidavit in lieu of accounts into the Masters' office, and attend before the Masters at or within such time as the Masters fix, and have his accounts taken and passed, and the Masters shall make to him all just allowances, including an allowance of his reasonable and proper costs, charges, and expenses of passing the account, and those of the next-of-kin and other persons (if any) allowed to attend on the passing of the account, at the cost of the estate (R. L. 1892, R. 73).

Where it is ordered that the committee of the estate do receive, or be at liberty to receive, any money on account of the lunatic or his estate, he shall give credit for the same on passing his accounts before the Masters, and where any sum is ordered to be allowed for the maintenance of the lunatic, or to be expended for any other purpose out of his estate, the committee of the estate shall be allowed the amount of the allowance for maintenance or the amount to be expended (as the case may be) on passing his accounts before the Masters (R. L. 1892, R. 118). The balances certified by the Masters to be due from the committee of the estate on passing his accounts, or so much thereof as the Masters certify to be proper to be paid by him shall, unless the Masters otherwise direct, within such time as the Masters fix, be laid out in the purchase of such securities for the time being authorised for the investment of cash under the control of the High Court, as the Masters direct, and the dividends on the securities so purchased shall, unless the Masters otherwise direct, when the same amount to a competent sum, be laid out in like manner without any request for the purpose (R. L. 1892, R. 76). The Masters' allowance of the account of a committee shall be sufficiently authenticated by the seal of the Masters' office (R. L. 1893, R. 8). Where the committee of the estate makes default in bringing in his account, or in having the same passed, or in paying the balance certified to be due from him, or in causing the same or any sum of cash in court to be laid out, paid, or received pursuant to any certificate or direction in that behalf, the Masters shall, unless good cause

be shown to them to the contrary, not only disallow his salary or remuneration (if any) but shall also charge him with interest at the rate of 4l. per cent. per annum upon any balance or cash for the time during which the same appears to have been improperly retained in hand or uninvested (R. L. 1892, R. 78). Upon the discharge or death of the committee of the estate or upon the issue of a *supersedeas* or the death of the lunatic, the Masters shall take and pass the account of the committee from his appointment or from the foot of his last account. If a balance is certified to be due from the committee of his estate he or his legal personal representatives shall pay the same into court by virtue of the certificate or otherwise within such time as the Masters direct, or in the case of a *supersedeas* shall pay the same to the person whose lunacy has been superseded, or in the case of the death of the lunatic shall pay the same to the legal representatives of the lunatic. If the Masters find a balance due to the committee on his estate, the same shall be paid to him or his legal personal representatives by the new committee out of the lunatic's estate, or in the case of a *supersedeas* by the person whose lunacy has been superseded, or in the case of the death of the lunatic by his legal personal representatives. Upon payment of the balance (if any), or if no balance is found due or the taking of the account is not required, and may, in the opinion of the Masters, be properly dispensed with, the security of the committee shall be discharged (R. L. 1892, R. 81).

Introduc.
CHAP. VI.

Where the security of a committee of the estate is to be discharged, the bond shall be delivered up to be cancelled ; and in the case of security having been given in the whole or in part by a sum of money or stock being brought into court, the Masters may make an order for the payment or transfer, in such manner as the Masters think proper, of the sum of money or stock, and the dividends thereon (R. L. 1893, R. 9).

Discharge of
security of
committee.

In each of the following cases the Masters shall inquire whether or not it is expedient that a committee or a new committee of the estate should be appointed, viz., (a) on default of a person approved to be committee of the estate in duly perfecting his security or in duly perfecting a fresh security when required by the Masters ; (b) on the death or discharge of a committee or one of several committees, where the custody does not survive ; (c) if a receiving order in bankruptcy is

Appointment
of fresh
committee.

Introduct. made against a committee or he compounds with his creditors ;
CHAP. VI. (d) if a committee absconds or goes to reside permanently abroad
 (R. L. 1892, R. 79). And if it appears that a committee or a
 new committee ought to be appointed in any of the above cases,
 the Master may make an order appointing a proper person to
 be such committee or such new committee accordingly (R. L.
 1892, R. 80).

Receiver
 appointed for
 particular
 duty.

12. Receiver Appointed for some Specified Purpose.] A
 receiver may be appointed in any case to do any particular
 duties for which such appointment shall be deemed expedient,
 and he need not be the receiver or quasi-committee, who is
 appointed under section 116: Where a receiver is appointed
 to do any particular duty, otherwise than the duty of a quasi-
 committee, under section 116, the person appointed shall, unless
 otherwise ordered, first give security to be allowed by the
 Masters duly to account for what he shall receive as such
 receiver, and to pay the same as the Masters direct, and the
 person so appointed shall, unless otherwise ordered, be allowed
 by the Masters a proper salary or allowance (R. L. 1892, R. 83).
 The security of a receiver is generally by recognizance entered
 into with sureties. Such recognizance may be taken and
 acknowledged before the Masters (R. L. 1892, R. 86). Where
 the security of a receiver is to be discharged, in the case of a
 recognizance, the proper officer shall, upon a direction from the
 Masters, attend the Masters, who shall thereupon vacate such
 recognizance in the usual manner (R. L. 1893, R. 9). The
 provisions of the Rules in Lunacy respecting the committee of
 the estate, his accounts, payments, allowances, and matters of
 the like nature, shall extend, so far as applicable, with the
 necessary modifications, to the case of a receiver (R. L. 1892,
 R. 84).

Orders as to
 maintenance.

13. Allowance for Maintenance.] The inquiries as to main-
 tenance immediately after inquisition found, and the power
 of the Masters to make orders thereon, have been already men-
 tioned. All orders for the allowance of maintenance take effect
 only until further order (R. L. 1892, R. 116). The form of order
 may be for the allowance of a fixed sum, or for such sum not
 exceeding a fixed amount as may be actually applied for main-
 tenance. Where it is ordered that the committee of the estate

do pay any sums of money for maintenance, he shall pay the same out of income; and where it is ordered that he do pay any costs, he shall, unless otherwise ordered, pay the same, when taxed, out of any moneys coming into his hands, after providing for the maintenance (R. L. 1892, R. 119). Where any sum is ordered to be allowed for the maintenance of the lunatic, the committee of the estate shall (as already stated) be allowed the amount of the allowance for maintenance on passing his accounts before the Masters (R. L. 1892, R. 118). The disposal of the lunatic's property by order of the Judge (or Masters) for payment of maintenance past or future will be referred to hereinafter (see section 117).

Introduct.
CHAP. VI.

Where the lunacy appears to be temporary the Judge (or Masters) may allow money belonging to the lunatic to be applied for his temporary maintenance or for the temporary maintenance of himself and the members of his immediate family who are dependent upon him (section 127; Act of 1891, s. 27 (1)). And in any case temporary provision for the maintenance of the lunatic or his family pending the appointment of committees may be made by the Masters by certificate (section 130).

14. *Extent of Powers as to Property and Appointment of Receiver as quasi-Committee.* [The powers and authorities given by the Act to the Judge in Lunacy extend to property in any British possession (section 110).] To what property

"Property" includes real and personal property whether in possession, reversion, remainder, contingency or expectancy, and any estate or interest, and any undivided share therein (section 341). In small cases where the personal property of a lunatic so found does not exceed 2,000*l.* in value or 100*l.* income, the powers of management and administration given by the Acts extend to such property in Scotland or Ireland without cognition or inquisition, and in cases where the real and personal property of a lunatic not so found in England and Ireland does not exceed similar limits, the Irish property is subject to the English jurisdiction (section 131).

The administrative powers of the Acts, as before stated, are such that inquisitions are now rarely necessary and the provisions extend to lunatics not so found for the administration of whose property any order has been made before the 1st May, 1890, or who are lawfully detained under care and treatment, In respect of what persons.

Introd. to every person not so detained and not found a lunatic by inquisition, but with regard to whom it is proved to the satisfaction of the Judge in Lunacy that such person is through mental infirmity arising from disease or age incapable of managing his affairs, and to criminal lunatics and persons who have been such and are still insane and in confinement, and to every person not a lunatic so found, with regard to whom it is proved to the satisfaction of the Judge in Lunacy that such person is of unsound mind and incapable of managing his affairs, and that his property does not exceed 2,000*l.* in value or 100*l.* a year income (section 116).

CHAP. VI.

In the case of any lunatic for the management of whose estates, a receiver has been appointed under any of the above-mentioned headings of the Lunacy Act, 1890, s. 116, not being "so found," such receiver has conferred upon him the powers which were previously exercisable by a committee of the estate, and in addition thereto he may exercise such powers as a *Master* as well as a Judge in Lunacy may direct (Lunacy Act, 1908, s. 1).

Principles of exercise of jurisdiction.

The administrative powers are exercisable in the discretion of the Judge or Master for the maintenance or benefit of the lunatic, or of him and his family, or where it appears to be expedient in the due course of management of the property. The property is not to be subject to the claims of creditors by virtue of the Act further than it is now subject by due course of law (section 116 (4), (5) and Act of 1891, section 27).

It must be borne in mind not only that the powers and duties of a committee of the estate have now been conferred upon a receiver (Act of 1908, s. 1), but also that the Rules in Lunacy must now, in cases where applicable, be held to apply to a receiver, as well as to the committee of the estate.

Exercise of jurisdiction by Masters.

Subject to the Rules in Lunacy the jurisdiction of the Judge in Lunacy as regards administration and management may be exercised by the Masters, and every order of a Master in that behalf shall take effect unless annulled or varied by the Judge in Lunacy (Act of 1891, s. 27 (1)). The Masters may make orders as regards administration and management, and they may direct by whom and in what manner the costs of any proceedings are to be paid (R. L. 1892, R. 10). Appeals to the Judge from the orders of the Masters are regulated by Rule 11 of the Rules in Lunacy, 1892.

Applications for the appointment of a Receiver are made by summons, and in support thereof a medical affidavit is required from the medical officer of the institution where the lunatic is detained, or other medical attendant. Such affidavit must adduce up to date evidence of the unsoundness of mind of the alleged lunatic, and in proceedings under section 116 (1), (c), copies of the Reception Order of the Judicial Authority, upon which the patient is confined, and copies of the two medical certificates accompanying the same, should be exhibited.

Introduct.
CHAP. VI.
 Evidence
 required for
 summons for
 appointment
 of Receiver.

An affidavit of Kindred and Fortune, an undertaking by the proposed Receiver, and an affidavit of fitness of the proposed Receiver are also required.

15. Administrative Powers.] The property of the lunatic may be sold, charged, mortgaged, dealt with, or disposed of by order of the Judge or Masters for payment of the lunatic's debts or engagements, discharge of any incumbrances on his property, payment of any debt or expenditure incurred for his maintenance or benefit, or provision for his future maintenance (section 117, and R. L. 1892, R. 123). The expenses of permanent improvements may be charged by order upon improved property or any other property, but without conferring any right of sale or foreclosure during the lifetime of the lunatic (section 118, and R. L. 1892, R. 123). Partnerships of which the lunatic was a member may be dissolved by order (section 119). The committee or receiver may be ordered to sell, exchange, or make partition of any property belonging to the lunatic, to carry on the lunatic's trade or business, to grant or surrender leases, to accept new leases or surrenders, to execute powers of leasing vested in a lunatic limited owner, to perform contracts relating to the property entered into by the lunatic before lunacy, to dispose of onerous property, to enter into agreements touching the patronage of augmented cures, and to exercise any power or consent to the exercise of any power vested in the lunatic for his own benefit or in the nature of a beneficial interest (section 120, R. L. 1892, R. 124, and R. L. 1893, R. 10). Property exchanged and renewed leases must be to the same uses as before (section 121), and the lunatic's interest in the proceeds of property sold, mortgaged, or disposed of is to be the same as he had in the property before the sale, mortgage, or disposition (section 123). Special provision

Powers of
 administra-
 tion and
 management

Introduct. is made as to admittance to copyholds and fines upon admittance (sections 125, 126). The committee or receiver may by order of the Judge or Masters exercise any power vested in the lunatic in the character of trustee or guardian (section 128, and Act of 1891, s. 27 (1), and Act of 1908, s. 1), and appointments of new trustees by the committee or receiver in exercise of such power by order of the Judge (or Masters) have the effect of appointments by the High Court, and like orders respecting the trust property may be made as under the Trustee Act, 1850. (Section 129, and Act of 1891, s. 27 (1), and Act of 1908, s. 1.)

Practice as to orders for management and administration of property.

Applications for orders as to administration and management should be made by summons at Chambers before the Masters, unless otherwise directed by the Judge or Masters in any particular case (R. L. 1892, Rr. 19—25). The Judge and Masters respectively may direct any person to be served with notice of any application, and may dispense with service on any person (R. L. 1892, R. 24). In the case of applications respecting the property of any person of unsound mind not so found by inquisition, Rules 48 to 55 of the Rules in Lunacy, 1892, are specially applicable. The same Rules apply to applications respecting the property of any person who, though not a lunatic, is through mental infirmity arising from disease or age incapable of managing his affairs (R. L. 1892, R. 56). General regulations as to summonses are contained in Rules 93 to 99 of the Rules in Lunacy, 1892, and as to evidence and affidavits in Rules 85 to 92, and as to copies of documents in Rules 141 to 149.

Undertaking by person appointed to act under the order.

Where an order is made by the Masters under those portions of the Lunacy Acts, which relate to management and administration, the Masters shall, unless for special reasons they think fit to dispense therewith, require the person appointed by the order to do any act or exercise any power to give an undertaking in a prescribed form, with such modifications as circumstances may require, to apply moneys received and to account for the same as directed, and to give security for due application of and accounting for such moneys, and to send half-yearly medical reports and notice of the place of abode of the person respecting whose property the order is made, and to facilitate visits to such person by the Chancery Visitors, &c. (R. L. 1893, R. 4).

The Chancery Visitors shall, upon the request of the Masters, visit and report as to any persons with reference to whom or to whose estate an application is pending before or an order has been made by the Masters (R. L. 1893, R. 5). Moreover, the Chancery Visitors shall also visit such persons alleged to be lunatics, and shall make such inquiries and reports in reference to them as the Judge in Lunacy directs (section 184 (1)).

Introduc.
CHAP. VI.
Visits by
Chancery
Visitors to
persons whose
property is
affected by
the order.

Temporary provision for the maintenance of persons of unsound mind not so found, or of any person not a lunatic, but through mental infirmity arising from disease or age incapable of managing his affairs, may be made by certificate of the Masters pending the appointment of a person to exercise in relation to the property any of the powers of the committee of the estate of a lunatic so found or of a receiver (R. L. 1892, Rr. 54, 56).

Temporary
maintenance.

16. Powers of County Court Judge.] Where a reception order is made in the case of a lunatic the value of whose whole property is under 200*l.*, and no relative or friend is willing to undertake the management of it, a County Court Judge having jurisdiction in the place from which the lunatic was sent may, upon the application of the clerk of the guardians or a relieving officer of the union or parish from which the lunatic was sent, authorise the applicant or any other person to take possession of and sell and realise the property and to exercise all the powers which could be exercised by the legal personal representative of the lunatic if he were dead, and the receipts of such person are a good discharge. The Judge may also give directions as to the reimbursement of the guardians for the past or future expenses of the lunatic's care and relief, or expenses incurred by the person administering the property. And the Judge may further order the whole or any part of the property to be paid into court to be invested and applied for the benefit of the lunatic. The person acting under the order must render accounts as the Judge appoints (section 132). Applications for any such order should be made by petition, and the same procedure followed and the same fees and costs allowed as on any petition under the equitable jurisdiction (County Court Rules, 1903, O. 50, R. 17).

Powers of
County
Court Judge.

17. Vesting Orders.] A Judge or Master* is empowered to order a transfer of stock belonging to a lunatic (section 133),

Power to
make vesting
orders.

* Lunacy Act, 1891, sec. 27 (1).

Introduct.

CHAP. VI.

even in cases where the lunatic is out of the jurisdiction (section 134). "Transfer" includes assignment, payment, and other disposition, and the execution and performance of every assurance and act to complete a transfer; and "stock" includes any fund, annuity, or security transferable in any manner, and any share or interest therein, and shares in registered ships (section 341). And the Bank of England and other companies and societies are fully indemnified (section 333). A Judge or Master* may also by order vest the right to transfer or call for a transfer of stock to which a lunatic is entitled upon trust or by way of mortgage, either solely or jointly, in any person or persons (section 136). But the powers of the Judge in Lunacy under sections 135—143, shall except so far as they relate to lunatic mortgagees, not being also trustees, be transferred to and subject to rules of the Supreme Court, be exercisable by the High Court, and saving the exception above referred to, the sections as so amended shall have effect as if for references to the Judge in Lunacy, there were substituted references to the High Court (Act of 1911, s. 1). And the Judge has power to vest the lands and release the contingent rights of a lunatic trustee or mortgagee (section 135, and Act of 1911, s. 1). Vesting orders may be made to vest land or stock in charity trustees (section 138, and Act of 1911, s. 1). A Judge may also make orders for the appointment of new trustees in every case in which he may make a vesting order (section 141, and Act of 1911, s. 1), and has full discretion as to costs (section 142, and Act of 1911, s. 1).

Power to
appoint new
trustees.

Discretion as
to costs.

With regard to *infant* lunatic trustees or mortgagees, the provisions of the Act shall not affect the jurisdiction of the High Court (section 143).

Orders and
other official
documents.

18. Orders and Certificates.] Office copies of orders and reports and certificates in lunacy are admissible as evidence of the orders, reports, and certificates without further proof (section 144), and office copies of orders relating to the payment, transfer, carrying over, or depositing into or in court of any cash, stocks, funds, annuities, securities, or other effects must be acted upon by all persons (section 145). And all transfers and payments under an order or certificate are valid and binding on all persons (section 146). Forgery of the signature of any

* Lunacy Act, 1891, sec. 27 (1).

Master or of the seal of the Masters' office is punishable with seven years' penal servitude (section 147). See also as to orders and certificates, Rules 60 to 68 of the Rules in Lunacy, 1892, as amended by Rules 6, 7, and 12 of the Rules in Lunacy, 1893.

Introduct.

CHAP. VI.

Issue of
process.

All process or writs of execution, attachment or otherwise, requisite for the enforcement of any order made under the Lunacy Acts, may be issued out of the Central Office of the Supreme Court (R. L. 1892, R. 125).

19. Percentages and Fees.] The percentage and fees payable in proceedings relating to lunatics and their estates may be regulated by rules, and percentage is payable although the lunatic is dead or the inquisition superseded or vacated and discharged on a traverse, but it may be remitted in any case where the property does not exceed 700*l.* in value (section 148). This power to make rules fixing percentage and fees shall be deemed to extend to all proceedings under the Acts whether relating to lunatics so found by inquisition or to any other person in relation to whom or to whose property an order under the said Acts has been or may be made. Provided that in the case of lunatics under the protection of the Judge in Lunacy by transmission of the record of an inquisition from Ireland and its entry of record in the High Court, and also of persons residing out of England and declared lunatic according to the laws of their place of residence, no percentage shall be levied except upon income arising from property within the jurisdiction of the Judge in Lunacy and administered under his direction (Act of 1891, s. 27 (3)).

Percentage
and fees
payable.

The subject of percentage and fees is accordingly regulated by Rules 126 to 140 of the Rules in Lunacy, 1892.

20. Supersedeas of Inquisition or Discharge of Receiver.] Applications for a supersedeas shall be made by petition (Rule dated 29th October, 1900). Every petition for a supersedeas and the evidence in support thereof shall be filed in the Masters' office and shall be brought before the Judge without previous consideration by the Masters (R. L. 1892, R. 18). The commission may be superseded unconditionally or upon conditions.

Application
for super-
sedeas.

If it appears to the Judge in Lunacy that it is not expedient or for the benefit of the lunatic that the commission should be unconditionally superseded but should be superseded upon

Conditional
supersedeas.

Introduct. terms and conditions, he may, with the consent of the lunatic and any others whose consent he deems necessary, order the commission to be superseded upon such terms and conditions as he thinks proper, and may make such orders as he thinks fit for giving effect to such terms and conditions (section 105).

CHAP. VI.

Supersedeas
as to person
but not as to
estate.

If the Judge is satisfied that the lunatic is cured or capable of managing himself, and not dangerous to himself or to others, though incapable of managing his affairs, the Judge may by order supersede the inquisition so far as it finds that the lunatic is incapable of managing himself, and rescind or vary any order for the commitment of the person, upon such terms and conditions as the Judge thinks fit. Notice of the order must forthwith be given to the committee of the person, and to the person under whose care the lunatic is (section 106).

Supersedeas
as to Irish
lunatic.

A transcript of any writ of supersedeas issued in England or Ireland may be transmitted to the sister Kingdom and there entered of record and acted upon as if issued in that Kingdom (section 107).

On a supersedeas being issued the Masters may make an order for payment, transfer, or delivery of any funds in Court belonging to the lunatic or any documents or effects relating to or forming part of his estate deposited in their office for safe custody, to the person entitled thereto (R. L. 1892, R. 46). Upon the issue of a supersedeas the Masters shall take and pass the account of the committee from his appointment or from the foot of his last account. If a balance is certified to be due from the committee he shall pay the same to the person whose lunacy has been superseded. If the Masters find a balance due to the committee the same shall be paid to him by the person whose lunacy has been superseded (R. L. 1892, R. 81).

A receiver appointed under section 116, is not discharged merely by the lapse of the reception order upon which a patient is detained. His discharge must be obtained upon summons supported by medical evidence as to the recovery of the person to whose estate he was appointed receiver.

Death of
lunatic.

21. Death of Lunatic.] On the death of a lunatic the Masters may make an order for payment, transfer, or delivery of any funds in Court belonging to the lunatic or any documents or effects relating to or forming part of his estate, deposited in their office for safe custody, to the person entitled thereto (R. L.

1892, R. 46). The Masters may, on being satisfied of a lunatic's death, open and read any document deposited with them purporting or alleged to contain any testamentary disposition made by him, for the purpose of ascertaining who is therein nominated executor thereof, and whether any direction is contained therein concerning his funeral or place of interment, and may deliver the document to the proper officer of the Probate Division to be dealt with according to law (R. L. 1892, R. 47).

Introduct.

CHAP. VI.

On the death of the lunatic the Masters shall take and pass the account of the committee or receiver (of the estate) from his appointment or from the foot of his last account. If a balance is certified to be due from the committee or receiver, he shall pay the same to the legal personal representatives of the lunatic. If the Masters find a balance due to the committee or receiver, the same shall be paid to him by the legal personal representatives of the lunatic (R. L. 1892, R. 81).

22. Costs.] The costs of all proceedings for the purpose of ascertaining whether a person is a lunatic, and of all proceedings in the matter of a lunatic are in the discretion of the Judge in Lunacy, who may order all or any part of them to be paid by the lunatic or alleged lunatic, or charged upon and paid out of his estate, or by any other party; and in case of the death of the lunatic or alleged lunatic an order for payment of costs out of his estate may be made within six years next after the right to recover them has accrued, and every such order has the effect of an order of the High Court (section 109).

The subject of costs and taxation of costs is also dealt with by Rules 110 to 115 of the Rules in Lunacy, 1892.

Payment of costs.

THE LUNACY ACT, 1890.

53 VICT. CAP. 5.

AN ACT to consolidate certain of the Enactments respecting Lunatics.
[29th March, 1890.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Preliminary.

1. This Act may be cited as the Lunacy Act, 1890.

Section 1.

This Act and the Lunacy Acts, 1891, 1908, and 1911 may be cited together as the Lunacy Acts, 1890 to 1911. See the Lunacy Act, 1911, 1 & 2 Geo. 5, c. 40, s. 2, *post*, p. 492.

2. Save as in this Act otherwise expressly provided, this Act shall not extend to Scotland or Ireland.

Extent of Act.

Sections 86 to 89 relate to the escape of lunatics from one part of the United Kingdom to another.

Section 107 relates to transmission of inquisitions and writs of supersedeas between Ireland and England.

Section 131 relates to dealings with the property of lunatics in the several parts of the United Kingdom.

3. [*This Act shall come into operation, save as in this Act otherwise expressly provided, on the first day of May, one thousand eight hundred and ninety.*]

Commencement.

This section was repealed by the Statute Law Revision Act, 1908. See section 38, *post*, p. 197, and the amendments made therein by the Act just mentioned.

PART I.

RECEPTION OF LUNATICS.

Reception Orders on Petition.

Section 4. **4.** (1.) Subject to the exceptions in this Act mentioned, a person, not being a pauper or a lunatic so found by inquisition, shall not be received and detained as a lunatic in an institution for lunatics, or as a single patient, unless under a reception order made by the judicial authority hereinafter mentioned. A relative of the person applying for an order under this section or of the lunatic, or of the husband or wife of the lunatic, shall not be capable of making such order.

Private patients not found lunatic by inquisition to be received only under order of judicial authority.

Definitions of "pauper," "lunatic," "inquisition," "institution for lunatics," "reception order," and "relative," section 341, *post*, p. 447, *seq.*

Definition of "judicial authority," section 9 (1), *post*, p. 164.

This sub-section (re-enacting section 2 (1) of the Lunacy Act, 1889, 52 & 53 Vict. c. 41) introduced an essential change in the mode of placing persons under care and treatment as lunatics in consideration of payment from private sources, by the introduction of the necessity for the intervention of a public functionary as the source of authority.

[Exceptions.] As to "the exceptions in this Act mentioned," see section 11, *post*, p. 167, as to urgency orders; section 340, *post*, p. 447, as to criminal lunatics.

[Single patient.] This Act does not contain any definition of a "single patient." The expression, however, would appear to include every person who is taken charge of, received to board or lodge, or detained as a lunatic or alleged lunatic, for payment, in any place not being an institution for lunatics as defined by this Act. See sections 46, 315, *post*, pp. 208, 428.

Forms 1, 2, 8. (2.) The order shall be obtained upon a private application by petition accompanied by a statement of particulars and by two medical certificates on separate sheets of paper.

Form of Petition, Form 1 in the Second Schedule, *post*, p. 456, as amended by section 23 of the Lunacy Act, 1891, *post*, p. 485.

Form of Statement of Particulars, Form 2 in the Second Schedule, *post*, p. 457.

Form of Medical Certificates, Form 8 in the Second Schedule, *post*, p. 460. See further as to medical certificates, sections 28—37, inclusive, *post*, pp. 189—196.

As to the use of these Forms, see section 339, *post*, p. 447.

Section 4.

As to the relative dates of the petition and of the accompanying medical certificates, see section 29 (1) and notes, *post*, p. 190.

NOTE.

In certain cases summary reception orders can be made without such an application as is referred to in the text, see section 13, *post*, p. 170. [Application by petition.]

This section (although not applicable to criminal lunatics) is occasionally made use of by stipendiary magistrates and other judicial authorities in cases where a person accused of crime is shown to be insane and an application for a reception order is made on his behalf. Compare the procedure as to defectives in similar cases under the Mental Deficiency Act, 1913, 3 & 4 Geo. 5, c. 28, section 8, *post*, p. 762.

5. (1.) The petition shall be presented, if possible, by the husband or wife or by a relative of the alleged lunatic. If not so presented it shall contain a statement of the reasons why the petition is not so presented and of the connection of the petitioner with the alleged lunatic, and the circumstances under which he presents the petition.

Petition for
reception
order.
Form 1.

Definition of "relative," section 341, *post*, p. 447, *seq*.

Form of petition, Form 1 in the Second Schedule, *post*, p. 456, as amended by section 23 of the Lunacy Act, 1891, 54 & 55 Vict. c. 65, *post*, p. 485.

If an urgency order has been made it must be referred to in the petition, section 11 (5), *post*, p. 169.

If a previous petition has been dismissed the facts relating thereto must be stated in the petition, so far as known to the petitioner, section 7 (4), *post*, p. 161.

If a medical certificate cannot be obtained from the usual medical attendant of the alleged lunatic, the reason must be stated in the petition : section 31, *post*, p. 192.

Wilful mis-statement of any material fact in a petition is a misdemeanor, section 317 (1), *post*, p. 430.

As to the protection of the petitioner, see section 330, *post*, p. 437.

(2.) No person shall present a petition unless he is at least twenty-one years of age and has within fourteen days before the presentation of the petition personally seen the alleged lunatic.

Dates of Interview and Petition.—The date of the last interview between the petitioner and the alleged lunatic and the date of the presentation of the petition, must both appear in the petition. In reckoning the fourteen days, the day of the last interview should be included, and the day of the presentation of the petition should be excluded. The last interview will, therefore, have been in time if it has taken place on the fifteenth day previously, inclusive of the date of the presentation of the petition. Sundays, Christmas Day, Good Friday, and all days of public fast or thanksgiving must be reckoned in.

Section 5. (3.) The petitioner shall in the petition undertake that he will personally, or by someone specially appointed by him, visit the patient once at least in every six months; and the undertaking shall be recited in the order.

[Undertaking
to visit
patient.]

See the undertaking in the Form of Petition, Form 1, in the Second Schedule, *post*, p. 456, and the recital of the undertaking in the Form of Order, Form 3 in the same Schedule. As a matter of strict law, it is probable that a wilful breach of this undertaking would be punishable as a contempt of court. No procedure for enforcing the undertaking is provided by this Act.

(4.) The petition shall be signed by the petitioner and the statement of particulars by the person making the statement.

[Signing of
petition and
particulars.]
Form 2.

Form of Statement of Particulars, Form 2, in the Second Schedule, *post*, p. 457.

It will be observed that the petitioner need not himself make the statement of particulars, or sign it unless he makes it, but he must sign the petition. If the person making the statement of particulars is not the petitioner, he must add to his signature the particulars mentioned in the form.

6. (1.) Upon the presentation of the petition the judicial authority shall consider the allegations in the petition and statement of particulars and the evidence of lunacy appearing by the medical certificates, and whether it is necessary for him personally to see and examine the alleged lunatic; and, if he is satisfied that an order may properly be made forthwith, he may make the same accordingly; or, if not so satisfied, he shall appoint as early a time as practicable, not being more than seven days after the presentation of the petition, for the consideration thereof; and he may make such further or other inquiries of or concerning the alleged lunatic as he may think fit. Notice of the time and place appointed for the consideration of the petition (unless personally given to the petitioner) shall be sent to the petitioner by post in a prepaid registered letter addressed to him at his address as given in the petition.

Procedure
upon petition
for a recep-
tion order.
Form 3.

Definition of "judicial authority," section 9 (1), *post*, p. 164.

[Construction
of particu-
lars.] The statement of particulars should not be construed by reading each of the answers separately in connection with the question to which it is appended, without taking into account the plain connection, both in grammar and substance, which subsists between them all: *Lowe v. Fox* (1887), 12 App. Cas. 206; 56 L. J. Q. B. 480; 56 L. T. (N.S.) 406; 36 W. R. 25; 51 J. P. 468.

[Procedure.] As to summoning witnesses, administering oaths, &c., see section 9 (2), *post*, p. 165.

As to the medical certificates being evidence of lunacy, see section 28 (4), *Section 6. post*, p. 190.

As to personal examination of the lunatic by the judicial authority, see the next sub-section.

NOTE.

The proceedings are judicial and nothing stated in the course of them is actionable: *Hodson v. Pare* (1899), 1 Q. B. 455; 68 L. J. Q. B. 309; 80 L. T. (N.S.) 13; 47 W. R. 241; 15 T. L. R. 171.

Form of Order for Reception of a Private Patient, Form 3 in the Second Schedule, *post*, p. 458.

A judicial authority being a relative of the petitioner, or of the lunatic, or of the husband or wife of the lunatic, is incapable of making the order see section 4 (1), *ante*, p. 156.

Wilful mis-statement of any material fact in the reception order is a misdemeanor, section 317, *post*, p. 430.

As to the delivery of the order and other documents to the petitioner, and as to the authority of the order, see section 35, *post*, p. 195.

Protection of persons putting the Act in force, section 330, *post*, p. 437.

If a day is appointed for the consideration of the petition, the seven days must be reckoned inclusively of the date of the presentation of the petition and of the day appointed for the consideration of the petition. Sundays, &c., should be included.

With regard to sending the notice of the hearing by post, it seems that under section 26 of the Interpretation Act, 1889 (52 & 53 Vict. c. 63), unless the contrary is proved, the notice, if duly addressed, prepaid, registered, and posted, must be deemed to have reached the petitioner at the time at which the letter would have been delivered in the ordinary course of post.

The judicial authority to whom a petition is presented is not always bound to entertain it himself. As to transfers, see sections 9 (3), 338 (4), and Rules thereunder, and section 24 (2) of the Lunacy Act, 1891, *post*, p. 485.

(2.) The judicial authority, if not satisfied with the evidence of lunacy appearing by the medical certificates, may, if he thinks it necessary so to do, visit the alleged lunatic at the place where he may happen to be. [Visit by judicial authority discretionary.]

Compare Mental Deficiency Act, 1913, s. 6 (1), *post*, p. 759, which makes a personal interview obligatory, in the case of defectives.

Under the provision in the text it is left to the discretion of the judicial authority whether this visit shall be paid with or without previous notice, and in the presence of any other person or persons or not. In all cases, if a reception order is made, it must be stated therein whether the judicial authority has or has not personally seen the lunatic.

See further as to the right of the alleged lunatic to be examined by a judicial authority, section 8, *post*, p. 162.

(3.) The petition shall be considered in private, and no one except the petitioner, the alleged lunatic (unless the judicial authority shall in his discretion otherwise order), any one person [Privacy of proceedings upon consideration of petition.]

Section 6. appointed by the alleged lunatic for that purpose, and the persons signing the medical certificates accompanying the petition, shall, without the leave of the judicial authority, be present at the consideration thereof.

See further as to the preservation of secrecy, sub-section (5) of this section.

[Order on hearing.]

(4.) At the time appointed for consideration of the petition the judicial authority may make an order thereon or dismiss the same, or, if he thinks fit, may adjourn the same for any period not exceeding fourteen days for further evidence or information, and he may give notice to such persons as he thinks fit of the adjourned consideration, and summon any persons to attend before him.

As to delivery of the order, together with the petition, statement of particulars, and medical certificates, to the petitioner, and by him to the manager of the institution or person receiving the lunatic, and as to the authority of the order, see section 35, *post*, p. 195.

As to dismissal of the petition, see section 7, *infra*.

In reckoning the fourteen days for adjournment, the day originally appointed for the consideration and the day appointed for the adjourned consideration must both be included. Sundays, &c., must also be included.

[Preservation of secrecy.]

(5.) Every judicial authority and all persons admitted to be present at the consideration of any petition for a reception order, or otherwise having official cognisance of the fact that a petition has been presented, except the alleged lunatic and the person appointed by the alleged lunatic as aforesaid, shall be bound to keep secret all matters and documents which may come to his or their knowledge by reason thereof, except when required to divulge the same by lawful authority.

It is difficult to say what is meant by "lawful authority." A subpoena might be "lawful authority." It seems that an order for inspection of documents would be "lawful authority": *Hill v. Philp* (1852), 7 Exch. 232; 21 L. J. Ex. 82; 16 Jur. 90. So, probably, an order to answer interrogatories.

Dismissal of petition.

7. (1.) If the petition is dismissed, the judicial authority shall deliver to the petitioner a statement in writing under his hand of his reasons for dismissing the same, and shall send a copy of such statement to the Commissioners, and shall also, where the alleged lunatic is detained under an urgency order, send notice by post, or otherwise to the person in whose charge the alleged lunatic is, that the petition has been dismissed.

The powers and duties of the Commissioners in Lunacy were by section 65 of the Mental Deficiency Act, 1913, transferred to the Board of Control established by that Act. References in the Lunacy Acts to "the Commissioners" must therefore be read as references to "the Board of Control." The present office of the Board of Control is at 66, Victoria Street, London, S.W.

Section 7.

NOTE.

[Substitution of Board of Control for Commissioners.]

As to detention under an urgency order, see section 11, *post*, p. 167.

As to the posting of notices, see note to section 6 (1), *ante*, p. 158.

(2.) Any judicial authority making or refusing a reception order, shall, if so required by the Commissioners, give to them all such information as they may require as to the circumstances under which the order was made or refused.

(3.) The Commissioners may communicate such information as they think proper, on the dismissal of the petition or the release of the alleged lunatic, to him or to any person who may satisfy them that he is a proper person to receive the information.

"The release of the alleged lunatic" means his release from detention under an urgency order. See sub-section (1) of this section.

As to the absolute right of such a person to a copy of the order and certificate, see section 82, *post*, p. 234.

(4.) If after a petition has been dismissed another petition is presented as to the same alleged lunatic, the person presenting such other petition, so far as he has any knowledge or information with regard to the previous petition and its dismissal, shall state the facts relating thereto in his petition, and shall obtain from the Commissioners at his own expense, and present with his petition, a copy of the statement sent to them of the reasons for dismissing the previous petition, and, if he wilfully omits to comply with this sub-section, he shall be guilty of a misdemeanor.

Obtaining Reasons of Dismissal.—Applications to the Commissioners for copies of statements of reasons for dismissing previous petitions should be made to the Secretary of the Board of Control. There does not appear to be any enactment entitling the Board to charge for copies, or expressly obliging them to furnish copies at any fixed rate or gratis.

Penalty for Omission.—No special penalty is provided for the punishment of a misdemeanor under this sub-section. Every person convicted of a misdemeanor for which no special punishment is provided by law is liable to fine and imprisonment without hard labour (both or either), and to be put under recognizances to keep the peace and be of good behaviour, at the discretion of the court: Stephen's Dig. Crim. Law, Art. 22.

Section 8. **8. (1.)** When a lunatic has been received as a private patient under an order of a judicial authority, without a statement in the order that the patient has been personally seen by such judicial authority, the patient shall have the right to be taken before or visited by a judicial authority, other than the judicial authority who made the order, unless the medical officer of the institution, or, in the case of a single patient, his medical attendant, within twenty-four hours after reception, in a certificate signed and sent to the Commissioners, states that the exercise of such right would be prejudicial to the patient.

Right of lunatic to be examined by judicial authority.

Form 5.

As to what is meant by the expression "a single patient," see note to section 4 (1), *ante*, p. 156.

Form of certificate as to Personal Interview after Reception, Form 5 in the Second Schedule, *post*, p. 460.

[Obligation to serve notice of right for interview with judicial authority.]
Form 6.

(2.) Where no such certificate has been signed and sent, the manager of the institution in which the patient is, or the person having charge of him as a single patient, shall, within twenty-four hours after reception, give to the patient a notice in writing of his right under this section, and shall ascertain whether he desires to exercise the right; and if he, within seven days after his reception, expresses his desire to exercise the right, such manager or person shall procure him to sign a notice of such desire, and shall forthwith transmit it by post in a prepaid registered letter to the judicial authority, who is to exercise the jurisdiction under this section, or to the justices' clerk of the petty sessional division or borough, where the lunatic is, to be by him transmitted to such judicial authority, and the judicial authority shall thereupon arrange, as soon as conveniently may be, either to visit the patient or to have the patient brought before him by the manager or person as the judicial authority may think fit.

Form 7.

Definition of "manager" section 341, *post*, p. 447.

Forms.—Form of Notice of Right to Personal Interview, Form 6 in the Second Schedule, *post*, p. 460.

Form of Notice of Desire for Personal Interview, Form 7 in the Second Schedule, *post*, p. 460, as altered by a Rule of the Commissioners dated 12th March, 1913, *post*, p. 564.

If the manager of the institution, or the person having charge of the single patient, makes default in giving to the patient notice of his right to a personal interview, or in forwarding to the judicial authority or justices' clerk the notice of desire for a personal interview, he will render himself liable either to indictment under sub-section (5) of this section, or, as it

seems, to proceedings for penalties under sections 320 and 326, *post*, pp. 431, 436, but he cannot be twice punished for the same offence. Section 8.

NOTE.

The time for expressing the desire to exercise the right must be reckoned exclusive of the day of reception, but inclusive of the day of expression of desire, and a mere verbal expression of such desire within the proper time would, as it seems, be sufficient, though the notice be signed by the patient afterwards.

Transfer.—The judicial authority to whom the notice is sent, if a county court judge or stipendiary magistrate, is not always bound to interview the lunatic himself, but may, under certain circumstances, transfer the matter to another judicial authority. See sections 9, 338 (4), and rules thereunder, *post*, pp. 568, 569.

(3.) The judicial authority shall be entitled, if he desires so to do, to see the medical certificates and any other documents upon the consideration of which the reception order was made, and shall after personally seeing the patient send to the Commissioners a report, and the Commissioners shall take such steps as may be necessary to give effect to the report. [Proceedings by judicial authority.]

Protection of judicial authority in making report, section 330, *post*.

Duty of Judicial Authority.—It will be observed that the judicial authority is not entitled under this sub-section to see the reception order itself or to act generally as a court of appeal from the decision of the judicial authority who made the reception order. His duty is to report the result of his personal examination.

Duty of Commissioners.—It would seem that the Commissioners have no option but to give effect to the report, and if the report advises a discharge they must obtain the discharge under sections 72 or 75, *post*, pp. 227, 229.

In connection herewith the following extract from the Resident Physician's Report of a registered hospital in 1895 is of interest: "For the first time since the introduction of this right into the Lunacy Act of 1890 a case occurred in the Hospital in which, as the result of the Report to the Commissioners in Lunacy by the Justice who visited the patient, his discharge was ordered by them. The facts briefly were as follows: The patient had twice previously been under care in this Hospital and had recovered. He was readmitted under certificates which showed that he was hostile and dangerous to his wife; he quickly improved after admission, and the Justice who visited him considered that he had recovered, and reported thus to the Commissioners in Lunacy, although the medical staff of the Hospital considered that sufficient time had not yet elapsed for thorough recovery, and that, on discharge, he would relapse and probably be again dangerous to his wife. The Commissioners directed that if no further symptoms of insanity had shown themselves since the visit of the Justice, the patient must be discharged. He was accordingly discharged from certificates, but as he was desirous of going to our Convalescent Home, he was allowed to remain as a voluntary boarder for that purpose. In a few days, however, he declined to follow my advice and was allowed to return home, there being now no legal obstacle to this step.

Section 8. Within a very short time after his leaving, hostility to his wife returned and he assaulted her, inflicting a wound on her head which might have had serious consequences, and the matter was put in the hands of the police.

NOTE.

"The Justice, who visited the patient here, on being informed of the result of the patient's premature discharge, expressed his astonishment at the result of his report, and said he had no idea that its effect would be to cause the patient's discharge, but that he thought the most it would do would be to specially call the attention of the Commissioners to the case, and he further said that he did not think that the majority of Justices were aware of the fact that their reports under such circumstances would have a like effect. The wording of the Act, however, obliges the Commissioners to 'take such steps as may be necessary to give effect to the report,' and it is very evident that in the existing state of the law the premature discharge of a patient on the report of a Justice, in spite of medical opinion, may be fraught with the most serious consequences."

See also *Law Quarterly Review*, April, 1913, p. 192.

[Jurisdiction.]

(4.) For the purposes of this section the jurisdiction shall be exercised by any judicial authority having authority to act in the place where the person received is, and not being the judicial authority who made the reception order; and arrangements shall for that purpose from time to time be made amongst themselves by the persons having such authority as aforesaid.

As the judicial authority who signed the order is incompetent under this Act (see section 6 (1), *ante*, p. 158) to respond to the notice of desire to see such official, it is necessary that the manager (or such person upon whom the duty of sending the notice devolves) should state the name of the Justice of the Peace or other authority upon whose order the patient is detained.

(5.) If any manager of an institution for lunatics, or any person having charge of a single patient, omits to perform any duty imposed upon him by this section, he shall be guilty of a misdemeanor.

It seems that this sub-section would not preclude liability to penalties recoverable summarily under sections 320, 326, *post*, pp. 431, 436, though of course no person could be punished in both ways for the same offence.

The Judicial Authority defined.

Judicial
authority
defined.

9. (1.) The powers of the judicial authority under this Act shall be exercised by a justice of the peace specially appointed as hereinafter provided, or a judge of county courts, or magistrate [*having respectively jurisdiction in the place where the lunatic is*].

Definition of "magistrate," section 341, *post*, p. 450.

The words in italics have been repealed by section 29 and the schedule

of the Lunacy Act, 1891, 54 & 55 Vict. c. 61. The object of the repeal was to facilitate the presentation of petitions and the giving of notices of desire to have a personal interview after reception. Section 9.
NOTE.

Special Justices.—As to the special appointment of justices, see section 10, *infra*, and section 24 (1) and (5) of the Lunacy Act, 1891, *post*, pp. 183, 184.

(2.) Every judicial authority shall, in the exercise of the jurisdiction conferred by this Act, have the same jurisdiction and power as regards the summoning and examination of witnesses, the administration of oaths, and otherwise, as if he were acting in the exercise of his ordinary jurisdiction, and shall be assisted, if he so requires, by the same officers as if he were so acting, and their assistance under this Act shall be considered in fixing their remuneration. [Powers of
judicial
authority.]

By section 3 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, it is enacted, amongst other things, that “oaths” include affirmations in the case of persons for the time being allowed by law to affirm. See the Oaths Act, 1888, 51 & 52 Vict. c. 46.

Costs of Petition.—On August 1st, 1890, in the House of Commons, Mr. Talbot asked the Home Secretary whether his attention had been drawn to the fact that under section 9 (2) of the Lunacy Act, 1890, there appears to be no provision for payment of the expenses incurred in the exercise of the jurisdiction therein conferred on the judicial authority; and if so, upon whom the order for such payment should be made? The Home Secretary (Mr. Matthews) replied that there appeared to be nothing on the subject of expenses in the section referred to, except the words which give to the judicial authority the same powers as if he were acting in the exercise of his ordinary jurisdiction, and which provide for the remuneration of his officers. He had no authority to give a legal opinion, but he apprehended that any expenses not covered by those words must fall upon the person presenting the petition: Hansard, Parl. Deb., 3rd ser., vol. cccxlvii., p. 1529.

(3.) A judge of county courts and magistrate shall not be required to exercise any powers under this Act so as to interfere with or delay the exercise of his ordinary jurisdiction. [County court
judges and
magistrates.]

Rules.—By section 338 (4), the Lord Chancellor and the Home Secretary are empowered to make rules for carrying out the object of this sub-section. Rules have been made accordingly, which are set out hereinafter, pp. 568, 569.

Transfers.—See also the power to transfer petitions conferred by section 24 (2) of the Lunacy Act, 1891, *post*, 485.

10. (1.) The justices of every county and quarter sessions borough, shall annually appoint out of their own body as many fit and proper persons as they may deem necessary to exercise Appointment
of justices to
make recep-
tion orders.

Section 10. [*within the county and borough respectively*], the powers conferred by this Act upon the judicial authority. In making such appointments the justices of every county shall have regard to the convenience of the inhabitants of each petty sessional division thereof.

Definition of "county" and "quarter sessions borough," section 341, *post*.

The words in italics were repealed by section 29 and the schedule to the Lunacy Act, 1891, 54 & 55 Vict. c. 65, *post*. Justices appointed under the Lunacy Act, 1889, 52 & 53 Vict. c. 41, have jurisdiction to make orders under this Act. See section 342, *post*, and notes thereto, p. 455.

The appointment may include the whole body of justices of the county or borough. See section 24 (4) of the Lunacy Act, 1891, 54 & 55 Vict. c. 65, *post*, p. 486.

Effect of Appointment.—As to the powers conferred on the judicial authority, see sections 4—9, *ante*, pp. 156—164. See also section 13, *post*, p. 170.

The appointment of special justices under this section in no way interferes with the powers and duties of the justices generally as regards resident pauper lunatics, and lunatics wandering at large. See sections 14—21 inclusive, *post*, pp. 172—181.

[Appoint-
ments to be
annual.]

(2.) The annual appointments under this section shall be made by justices of a county at their Michaelmas quarter sessions, and by justices of a borough at special sessions to be held in the month of October.

Borough Special Sessions.—The special sessions in a borough may be convened at a time appointed by two justices of the borough sitting at an ordinary petty sessions, and the clerk to the justices should serve notices on all the justices on the commission.

Extent of Jurisdiction.—The jurisdiction of justices once appointed continues in force until a fresh appointment is made. See section 24 (5) of the Lunacy Act, 1891, *post*, p. 486.

[Defaults in
appointing.]

(3.) If in any year such appointments are not made, it shall be lawful for the Lord Chancellor, by writing under his hand, to make the same; and if, on any representation made to him that the number of justices so appointed for any county or borough is at any time insufficient, the Lord Chancellor is satisfied that such representation is well founded, he shall have power to appoint, by writing under his hand, any other justices of such county or borough to act, until the next Michaelmas quarter or special sessions, with the justices so appointed.

Lord Chancellor.—By section 12 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, it is enacted that in this Act¹ and in every other Act whether passed before or after the commencement of this Act, unless the contrary

intention appears, the expression "the Lord Chancellor" shall, except when used with reference to Ireland only, mean the Lord High Chancellor of Great Britain for the time being, and when used with reference to Ireland only, shall mean the Lord Chancellor of Ireland for the time being.

Section 10.

NOTE.

(4.) If in the case of a borough or place not having a separate quarter sessions, representation is made to the Lord Chancellor that public inconvenience is likely to result, unless power is given to the justices of such borough or place to exercise [*within the same*] the powers conferred by this Act upon the judicial authority, it shall be lawful for the Lord Chancellor, from time to time, with or without a fresh representation, to appoint, by writing under his hand, one or more of the justices of such borough or place to exercise [*within the same*] during such time as the Lord Chancellor thinks fit the powers aforesaid, together with any other specially appointed justices acting therein.

The words in italics were repealed by section 29 and the schedule of the Lunacy Act, 1891, *post*, p. 488.

(5.) In the case of the death, absence, inability, or refusal to act of any justice appointed under this section, the justices of the county or borough, or the Lord Chancellor, as the case may be, may appoint a justice to act in his place. Such appointment may be made by justices of a county at any quarter sessions, and by justices of a borough at special sessions to be held at the same time as any quarter sessions.

(6.) All appointments of justices under this section shall be recorded by the clerk of the peace of the county or borough, or in the case of a borough or place not having a separate quarter sessions, by the clerk to the justices, and it shall be the duty of every such clerk to publish the names of the justices so appointed in each petty sessional division of the county and otherwise for the information of all persons interested. In the case of quarter sessions boroughs, the clerk to the justices making the appointment shall forthwith notify the same to the clerk of the peace of the borough.

In a quarter sessions borough it will be the duty of the clerk of the peace, and not of the clerk to the justices, to publish the names of the justices so appointed in the borough.

Urgency Orders.

11. (1.) In cases of urgency where it is expedient, either for the welfare of a person (not a pauper) alleged to be a lunatic,

Urgency orders.

Section 11. or for the public safety, that the alleged lunatic should be forthwith placed under care and treatment, he may be received and detained in an institution for lunatics, or as a single patient
Forms 4, 8, 9. upon an urgency order, made (if possible) by the husband or wife or by a relative of the alleged lunatic, accompanied by one medical certificate.

Definitions of "pauper," "institution for lunatics," and "relative," section 341, *post*, p. 447.

As to the meaning of "single patient," see notes to section 4 (1), *ante*, p. 156.

This sub-section is a re-enactment of section 8 (1) of the Lunacy Act, 1889, 52 & 53 Vict. c. 41. That enactment was suggested by a recommendation of the Select Committee of 1878, Report, p. iv., in which it is said that "the difficulty which presents itself at the outset is the universally conceded importance of the speediest possible treatment of the first symptoms of derangement. This might doubtless be carried on, and in many instances better carried on, outside the walls of an asylum, but in most cases such would be obviously impossible, nor would an intermediate hospital, which has been suggested, effectually prevent the taint of insanity from attaching to temporary cases. Any impediment to the rapid conveyance of a patient to an asylum might, in some instances render the case hopeless. In Scotland, what is called an emergency certificate, signed by one medical man, is found to work well, and evidence was given that the speedy treatment secured in this way is so efficacious that in many cases no further certificate is required, as the patient is discharged before the expiration of the three days during which it is valid. If, however, he is detained longer, then, as in Scotland, notice should be at once transmitted to the Board, and no patient should be kept beyond three days without a fresh certificate, signed by two independent medical men. The committee object, except in cases of absolute necessity, to those enactments in the Scotch law which allow the medical officer of an asylum to sign either a certificate of emergency or one of the ordinary certificates in the case of a pauper patient. It must almost invariably be by the advice of a medical attendant that the certificate of emergency is employed, and he would be the proper person to sign it."

Forms.—Form of Urgency Order, Form 4 in the Second Schedule, *post*, p. 459.

Forms of Medical Certificate and Statement accompanying Urgency Order, Forms 8 and 9 in the Second Schedule, *post*, pp. 460, 461. As to the Statement, see section 28 (3), *post*.

As to the use of these Forms, see section 339, *post*, p. 190.

Wilful mis-statement in any urgency order or accompanying certificate is a misdemeanour, section 317, *post*, p. 430.

Protection of persons signing urgency orders and accompanying certificates, section 330, *post*, p. 437.

Medical Examination.—By section 29 (3), *post*, p. 192, in the case of an urgency order, the lunatic shall not be received under the order unless it appears by the medical certificate accompanying the order that the certifying medical practitioner has personally examined the alleged lunatic not more than two clear days before his reception.

Pauper and Wandering Lunatics.—It will be observed that the procedure by urgency order is not applicable to paupers. Paupers, wandering lunatics, and lunatics not under proper care and control, or cruelly treated or neglected by any relative, or other person having the care or charge of them, may be taken to the workhouse in urgent cases under section 20, *post*, p. 179.

Section 11.

NOTE.

(2.) An urgency order may be signed before or after the medical certificate. [Dates of order and certificate.]

(3.) If an urgency order is not signed by the husband or wife or by a relative of the alleged lunatic, the order shall contain a statement of the reasons why the same is not so signed and of the connexion with the alleged lunatic of the person signing the order, and the circumstances under which he signs the same. [Signature of order.]

(4.) No person shall sign an urgency order unless he is at least twenty-one years of age, and has within two days before the date of the order personally seen the alleged lunatic. [Personal interview before order.]

(5.) An urgency order may be made as well after as before a petition for a reception order has been presented. An urgency order, if made before a petition has been presented, shall be referred to in the petition, and if made after the petition has been presented, a copy thereof shall forthwith be sent by the petitioner to the judicial authority to whom the petition has been presented. [Urgency order and petition.]

(6.) An urgency order shall remain in force for seven days from its date; or if a petition for a reception order is pending, then until the petition is finally disposed of. [Duration of order.]

Computation of Time.—The seven days should be reckoned exclusively of the day of the date of the urgency order 8 days in all: *Re Railway Sleepers Supply Company* (1885), 29 Ch. D. 204; 54 L. J. Ch. 720; 52 L. T. 731; 33 W. R. 595.

Discharge.—If no petition is pending at the end of the seven days, the patient must be discharged. As to the right of a person who has been released from detention under an urgency order to a copy of the order and certificate, see section 82, *post*, p. 234.

(7.) An urgency order shall have subjoined or annexed thereto a statement of particulars. [Statement of particulars.]

Form.—Form of Statement of Particulars, Form 2, in the Second Schedule, *post*, p. 457. As to the use of this Form, see section 339, *post*, p. 447. Form 2.

Reception after Inquisition.

12. A lunatic so found by inquisition may be received in an institution for lunatics or as a single patient upon an order found by inquisition. Lunatics so found by inquisition.

Section 12. signed by the committee of the person of the lunatic, and having annexed thereto an office copy of the order appointing the committee, or if no such committee has been appointed, upon an order signed by a Master.

Definitions of "lunatic," "Master," "inquisition," and "institution for lunatics," section 341, *post*, p. 447.

As to the meaning of "single patient," see notes to section 4 (1), *ante*, p. 156.

As to the order appointing the committee, see section 108 (2), *post*, p. 252.

Summary Reception Orders. (a)

Lunatics not under proper care and control or cruelly treated or neglected.

13. (1.) Every constable, relieving officer, and overseer, of a parish, who has knowledge that any person within the district or parish of the constable, relieving officer, or overseer, who is not a pauper and not wandering at large, is deemed to be lunatic and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, shall within three days after obtaining such knowledge give information thereof upon oath to a justice being a judicial authority under this Act.

In determining whether the person is "not under proper care and control," the circumstances of the alleged lunatic's ordinary life are to be considered: *Welsh v. Duckworth* (1902), 18 T. L. R. 633.

Definitions of "pauper," "lunatic," and "relative," section 341, p. 447.

Duty of Constable, &c.—The duty of the constable, relieving officer (subject, however, to section 2 (2) of the Lunacy Act, 1891, 54 & 55 Vict. c. 65, *post*) or overseers, to lay an information within three days after obtaining the knowledge stated is absolute, but any other person having the like knowledge may at any time lay a similar information, notwithstanding the duty imposed on these officers. The informant, whether such officer or not, need only know and swear that the party not under proper care and control, or cruelly treated or neglected, is "deemed to be a lunatic," and need not have or depose to accurate medical knowledge as to his mental condition. The three days should be reckoned exclusively of the day of obtaining the knowledge, but inclusively of the day of swearing the information. Sundays, &c., must be included. As to the penalty for failing to comply with the requirements of the Act, see section 320, *post*, p. 431.

Special Justice.—It will be observed that the information must be laid before one of the justices specially appointed to exercise the powers conferred by this Act upon the judicial authority.

Urgency.—As to taking the lunatic to a workhouse immediately in a case of urgency, see section 20, *post*, p. 179.

Offences.—As to the punishment of the person having the care or charge of the lunatic, and ill-treating the lunatic, see section 322, *post*, p. 432.

(a) See definition of "summary reception order," section 19 (1), *post*, p. 279.

(2.) Any such justice upon the information on oath of any person whomsoever, that a person [*within the limits of his jurisdiction*], not a pauper and not wandering at large, is deemed to be a lunatic and is not under proper care and control, or is cruelly treated or neglected as aforesaid, may himself visit the alleged lunatic, and shall, whether making such visit or not, direct and authorise any two medical practitioners whom he thinks fit to visit and examine the alleged lunatic and to certify their opinion as to his mental state, and the justice shall proceed in the same manner so far as possible, and have as to the alleged lunatic the same powers, as if a petition for a reception order had been presented by the person by whom the information with regard to the alleged lunatic has been sworn.

Section 13.

[Proceedings of specially appointed justice.]

The words in italics were repealed by section 29, and the schedule of the Lunacy Act, 1891, 54 & 55 Vict. c. 65, *post*, p. 488.

As the section does not make it compulsory for the judicial authority to see the alleged lunatic before making the order, it is desirable that a notice of right to see a judicial authority should be served to satisfy the terms of section 8, *ante*, p. 162.

Powers of Justice.—It will be observed that the justice cannot act merely upon his own opinion of the case, but is obliged to direct an examination by two duly qualified medical men, and proceed as if a petition had been presented.

As to the procedure upon petition, see sections 6 and 7, *ante*, and notes, p. 158 *seq.*; and as to the powers of the judicial authority, see also section 9 (2), *ante*, and notes, p. 165.

Medical Examinations.—Each of the medical men must examine the alleged lunatic separately from the other not more than seven clear days before the date of the order, see section 29 (2), *post*, p. 191, and it seems from the use of the plural “certificates” in the next sub-section, that they must make separate certificates. The certificates should be in the Form 8 in the Second Schedule, *post*, p. 460. As to the power of the justice to order payment of remuneration to the medical practitioners, see section 285, *post*, p. 392.

(3.) If upon the certificates of the medical practitioners who examine the alleged lunatic, or after such other and further inquiry as the justice thinks necessary, he is satisfied that the alleged lunatic is a lunatic, and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, and that he is a proper person to be taken charge of and detained under care and treatment, the justice may, by order direct the lunatic to be received and detained in any institution for lunatics to which, if a pauper, he might be sent under this Act, and the constable,

[Making of order.]

Form 15.

Section 13. relieving officer, or overseer upon whose information the order has been made, or any constable whom the justice may require so to do, shall forthwith convey the lunatic to the institution named in the order.

The construction of this sub-section with regard to the words "to which, if a pauper, he might be sent," must be read in the light of section 27, *post*, under which, subject to certain restrictions contained in that section, he may be sent to any institution for lunatics (see also section 3 of the Lunacy Act, 1891, *post*, p. 473).

Dismissal and Adjournment.—Instead of making a reception order, the justice may dismiss the information, in which case section 7, *ante*, will apply. If the justice has adjourned consideration before making the order, he must see that the adjournment has not rendered fresh certificates necessary under section 29 (1), *post*, p. 190.

Form.—Form of Order for Reception of a Lunatic not under proper care and control, or cruelly treated or neglected, Form 15 in the Second Schedule, *post*, p. 464. As to the use of this Form, see section 339, *post*, p. 447.

Expenses.—As to the power of the justice to order payment of the expenses of carrying the order into effect, see section 285, *post*, p. 392.

Removal.—As to the execution of the order, see section 35 (1), *post*, p. 195, and section 2 (1) of the Lunacy Act, 1891, *post*, p. 472; and as to suspending the execution of the order, see section 19, *post*.

As to temporary removal to a workhouse, see section 21, *post*.

Maintenance.—As to the liability for the expenses of maintenance in the institution, see section 298, *post*, p. 179.

Notice to be given of pauper lunatic who ought to be sent to an asylum.

14. (1.) Every medical officer of a union who has knowledge that a pauper resident within the district of the officer is or is deemed to be a lunatic and a proper person to be sent to an asylum, shall, within three days after obtaining such knowledge, give notice thereof in writing to the relieving officer of the district, or, if there is no such officer, to an overseer of the parish where the pauper resides.

Poor Law Medical Officers.—The expression "medical officer of a union" means "district medical officer," and does not appear to include a workhouse medical officer.

Computation of Time.—The "three days" should be reckoned exclusively of the day of obtaining knowledge, but inclusively of the day of giving notice to the relieving officer or overseer. Sunday, &c., must be included.

Penalties.—As to the penalty for making default in the duty imposed by this sub-section, see section 320, *post*, p. 431.

[Notice to justice.]

(2.) Every relieving officer and every overseer of a parish of which there is no relieving officer, who respectively have knowledge, either by notice from a medical officer or otherwise, that any pauper resident within the district or parish of the

relieving officer or overseer is deemed to be a lunatic, shall, Section 14.
 within three days after obtaining such knowledge, give notice
 thereof to a justice having jurisdiction in the place where the
 pauper resides.

The duty of the relieving officer has been modified in certain cases by section 2 of the Lunacy Act, 1891, *post*, p. 472.

Computation of Time.—The “three days” should be reckoned exclusively of the day of obtaining knowledge, but inclusively of the day of giving notice to a justice. Sunday, &c., must be included. It will be observed that the notice need not be given to a specially appointed justice, but may be given to any justice having jurisdiction in the place where the pauper resides. See 58 J. P. 272.

Chairman of Guardians.—As to the appointment of the chairman of the board of guardians to make orders for the reception of pauper lunatics, see section 25 of the Lunacy Act, 1891, *post*, p. 486.

(3.) A justice, upon receiving such notice, shall by order [Appearance
 require the relieving officer or overseer giving the notice, to of alleged
 bring the alleged lunatic before him or some other justice having lunatic.]
 jurisdiction in the place where the pauper resides at such time
 and place within three days from the time of the notice to the
 justice as shall be appointed by the order.

In the case of a pauper who became a lunatic while residing in the workhouse infirmary which was outside the boundaries of the union to which he was chargeable, it was held that a Justice having jurisdiction in the union to which the workhouse belonged was entitled to act, as section 56 of the Poor Law Amendment Act, 1844, applied: *Reg. v. Bell*, 1900, 2 Q. B. 391; 64 J. P. 789; 82 L. T. 711.

Urgency.—As to the removal of the alleged lunatic to the workhouse in urgent cases, see section 20, *post*, and notes, p. 179.

15. (1.) Every constable and relieving officer and every Lunatic
wandering
at large to
be brought
before a
justice.
 overseer of a parish who has knowledge that any person (whether
 a pauper or not) wandering at large within the district or parish
 of the constable, relieving officer, or overseer is deemed to be a
 lunatic, shall immediately apprehend and take the alleged
 lunatic, or cause him to be apprehended and taken, before a
 justice.

A person deemed to be a lunatic and not being under control is a person “wandering at large” so as to come within the meaning of that term in the above section. *Morris v. Atkins*, 1902, 18 T. L. R. 628.

The duty of the relieving officer has been modified in certain cases by section 2 of the Lunacy Act, 1891, *post*, p. 472.

Urgency.—As to the immediate removal of the lunatic to the workhouse, if necessary for the public safety or the welfare of the lunatic, see section 20, *post*, p. 179.

Section 15. (2.) Any justice, upon the information upon oath of any person that a person wandering at large within the limits of his jurisdiction is deemed to be a lunatic, may by order require a constable, relieving officer, or overseer of the district or parish where the alleged lunatic is, to apprehend him, and bring him before the justice making the order, or any justice having jurisdiction where the alleged lunatic is.

[Apprehension on information.]

Lunatic brought before a justice may be sent to an institution for lunatics.

Form 8.

Form 12.

16. The justice before whom a pauper alleged to be a lunatic or an alleged lunatic wandering at large is brought under this Act shall call in a medical practitioner, and shall examine the alleged lunatic, and make such inquiries as he thinks advisable, and if upon such examination or other proof the justice is satisfied in the first-mentioned case that the alleged lunatic is a lunatic and a proper person to be detained, and, in the secondly-mentioned case, that the alleged lunatic is a lunatic, and was wandering at large, and is a proper person to be detained and if in each of the foregoing cases the medical practitioner who has been called in signs a medical certificate with regard to the lunatic, the justice may by order direct the lunatic to be received and detained in the institution for lunatics named in the order, and the relieving officer, overseer, or constable who brought the lunatic before the justice, or in the case of a lunatic wandering at large, any constable who may by the justice be required so to do, shall forthwith convey the lunatic to such institution.

Forms.—Form of Medical Certificate, Form 8 in the Second Schedule, *post*, p. 460.

Form of Order for the Reception of a Pauper Lunatic or Lunatic wandering at large, Form 12 in the Second Schedule, *post*, p. 463.

As to the use of these Forms, see section 339, *post*, p. 447.

Wilful mis-statement in any certificate or order is a misdemeanor, section 317, *post*, p. 430.

Protection of persons signing orders and certificates, section 330, p. 437.

Circular of Lunacy Commission, March 1, 1911: "It has come to the knowledge of the Commissioners in Lunacy that in some cases justices of the peace when called upon to make Summary Reception Orders under section 16 of the Lunacy Act, 1890, have done so without having the alleged lunatics brought before them and examining them personally. The Commissioners therefore desire to call the attention of justices and relieving officers to the requirements of sections 14, 15, and 16 of the Act, which make it imperative on the justice in every case to see the alleged pauper lunatic, or lunatic wandering at large, before making the Order and to point out that an Order under these sections signed by a justice who had not, previous to making the Order, seen the alleged lunatic would be invalid.

"In connection with this subject the Commissioners would observe that they give no countenance to the practice, against which they have constantly protested, of bringing patients to be examined at Police Courts, or buildings parts of which are used for the administration of justice. Section 16.

NOTE.

"As they have so often pointed out, its influence upon patients is frequently very prejudicial, as leading them to the conclusion that they are being subjected to a judicial examination for some crime, and that their subsequent confinement in an asylum is a form of imprisonment as its penalty.

"They think it important again to draw attention to the matter in the hope that such examinations will be altogether dispensed with, except in criminal cases, the patients being examined either at their own homes or the workhouses of the district in which they may be." (66th Rep. of the Commissioners in Lunacy, p. 28.)

See also note to section 17, *post*, p. 177, as to "Privacy of examination."

Medical Examination.—The medical practitioner called in by the justice to his assistance may be any district or workhouse medical officer of the union. Such medical officers have, however, no prior claim to be called in in preference to any other duly registered and qualified medical man. No formal order calling in the medical practitioner is necessary under this section, nor need the examination of the alleged lunatic by the justice be made in the presence of the medical practitioner, or made with the knowledge of its object by the alleged lunatic so as to give him an opportunity of explaining anything alleged as a sign of insanity: *Reg. v. Whitfield* (1885), 15 Q. B. D. 122; 54 L. J. M. C. 113; 53 L. T. (N.S.) 96; 49 J. P. 820.

In a circular letter from the Secretary of State to the Clerks to the Justices for Petty Sessional Divisions the following extracts appear:—

(1.) "Section 16 of the Lunacy Act, 1890, which prescribes the steps to be taken when a pauper alleged to be a lunatic, or an alleged lunatic wandering at large, is brought before a justice, directs amongst other things that the justice shall call in a medical practitioner, and it is only when this practitioner has signed a medical certificate with regard to the lunatic that an order for his removal to an institution for lunatics can be made. In some cases the relieving officer has, it is found, often selected or influenced the selection of the medical practitioner who should examine the alleged lunatic; but it appears to the Secretary of State that the section requires that on each occasion the justice should himself call in such medical practitioner as he may think fit, and that the relieving officer should in no way be concerned in the selection.

(2.) "A justice should not sign the reception order until the medical practitioner has signed the medical certificate. It appears that justices sometimes do not wait until the certificate has been signed by the medical practitioner, and the statement of particulars filled in and signed by the relieving officer.

(3.) "Sometimes the name of the asylum to which the lunatic is to be conveyed is left blank in the reception order. The law officers of the crown have advised that unless the name of the asylum to which the lunatic is to be removed is stated in the reception order when it is made, the

Section 16. order cannot legally be acted on ; and Mr. Ritchie thinks it very important that the requirement of the Lunacy Act in this matter should be complied with.

NOTE.

(4.) "I am to call your attention to section 27 (2) of the Lunacy Act, and to say that it is important that justices should very carefully ascertain that there is a deficiency of room or that there are some special circumstances before they authorise a lunatic to be sent to some institution other than the County Asylum. The cost in any such institution is of course much greater than in the county asylums, and in some instances the institution is situate at a considerable distance from the place from which the lunatic is sent, and he may thus be entirely cut off from his friends." (56th Rep. of the Commissioners in Lunacy, pp. 8—9.)

Propriety of Detention.—It is for the justice to decide, not only as to the fact of lunacy, but also whether the alleged lunatic is a proper person to be detained, for not every chargeable or wandering lunatic need be sent to an institution for lunatics ; see *Reg. v. Barnsley* (1849), 12 Q. B. 193 ; 18 L. J. M. C. 170 ; 13 J. P. 329 ; *Reg. v. Wakefield*, 48 J. P. 326.

Certiorari.—It seems that the order for reception, if made, is not of such a judicial nature as to be removable by *certiorari* for the purpose of quashing it : *Reg. v. Hatfield Peverel* (1849), 14 Q. B. 298 ; 18 L. J. M. C. 225. But see *Reg. v. Smith* (1879), 5 Q. B. D. 96 ; 49 L. J. M. C. 29 ; 41 L. T. (N.S.) 664 ; 28 W. R. 662 ; 44 J. P. 184.

Asylum.—As to the institution to which the lunatic may be sent, see section 27, *post*, p. 188.

Removal.—As to the execution of the order, see section 35 (1), *post*, p. 195, and section 2 (1) of the Lunacy Act, 1891, *post*, p. 472, and as to suspending the execution of the order, see section 19, *post*, p. 179.

As to the power of the justice to order temporary removal to the work-house, see section 21, *post*, p. 180.

Expenses.—As to the power of the justice to order payment of remuneration to the medical practitioner and of the expenses of carrying the order into effect, see section 285, *post*, p. 392. With regard to justices' clerks' fees, if any fee is specified in the table of court fees under section 8 of the Justices' Clerks Act, 1877, 40 & 41 Vict. c. 43, for the attendance of such clerk on a justice making a summary reception order under this Act, and for drawing up the order, such fee should be paid by the constable, overseer, or relieving officer bringing the case before the justice, and that whether the clerk is actually present or not : see 55 J. P. 827.

Classification.—As to the classification of the patient on reception into the institution, see section 3 of the Lunacy Act, 1891, 54 & 55 Vict. c. 65, *post*, p. 473.

In the fifty-sixth Report of the Commissioners in Lunacy, at p. 9, is stated :—

"It appears to have been held by a Divisional Court of the Queen's Bench Division in 1894, that where there was ground for believing a pauper patient in an asylum to be possessed of sufficient property to maintain him as a private patient, he should be at once reclassified as such.

"The importance of this decision lay, not in any effect upon the position of the patient as respects accommodation and treatment, but in his altered

status with reference to discharge, the private patient being able to be discharged under section 72 of the Lunacy Act, 1890, by the person who made the last payment for his maintenance, or by various relatives, or by the Commissioners in Lunacy; the pauper, under section 77, only under the order of the visitors of the Asylum." Section 16.

NOTE.

Maintenance.—As to payment of expenses of maintenance, see sections 286—298, pp. 393—411.

17. Where, under this Act, notice has been given to, or an information upon oath laid before a justice that a pauper resident within the limits of his jurisdiction is deemed to be a lunatic, and a proper person to be sent to an asylum, or that a person whether a pauper or not, wandering at large within the limits aforesaid, is deemed to be a lunatic, such justice may examine the alleged lunatic at his own house or elsewhere, and may proceed in all respects as if the alleged lunatic had been brought before him. Power to examine alleged lunatic at his own abode, or elsewhere.

If the justice so visits the alleged lunatic he must call in a medical practitioner under section 16 to examine and certify just as if the lunatic had been brought before the justice by order under sections 14 or 15, and the justice has no authority to make an order upon his own knowledge only.

Privacy of Examination.—With reference to the corresponding provisions of sections 67 and 68 of the Lunatic Asylums Act, 1853, 16 & 17 Vict. c. 97, the Poor Law Board, in a Circular Letter dated the 26th November, 1867, issued to boards of guardians in the metropolis, stated that their attention had been called by the Commissioners in Lunacy to a practice which was said to prevail in regard to the removal of lunatic paupers in the metropolis to lunatic asylums. It was alleged that lunatics for whom an order of removal to an asylum was required, were frequently taken before the magistrates sitting at the police courts in the metropolis, and after examination there were removed under the proper order to the asylum. It was stated that the investigations required in such cases were often such as are not suitable to a public court, and that the unfortunate object of the inquiry was not only exposed to public observation in a painful manner, but his malady was possibly increased, or his cure retarded, by the excitement caused by the proceeding. The statute 16 & 17 Vict. c. 97, sections 67, 68, provided for the orders under which pauper and certain other lunatics were to be removed to asylums, and required the lunatic to be brought before one, and in some cases before two justices [now, one is always sufficient], who were to issue the proper order of removal. As the lunatic was to be brought before the justice, it was customary to take him before the justice sitting at his usual official place of business, and, as regards a police magistrate in the metropolis, that was the police court. But it was provided by the statute in both cases that the justice might examine the lunatic at his own abode or elsewhere, and might proceed as if the person were brought before him in the manner therein previously prescribed. It was

Section 17. recommended by the Commissioners in Lunacy that this course should be adopted in the metropolis, and that instead of the lunatic being taken to the police court, endeavour should be made to arrange that the lunatic might be visited by the justice at his place of abode or elsewhere, where he might be when it was sought to have him removed to the asylum. The Board could not but coincide in the views thus expressed as to the evils attending the general practice above adverted to. They believed that in some of the metropolitan parishes, a different practice had prevailed and had been found to be available without inconvenience. They, therefore, had to urge upon the consideration of the guardians, the propriety of endeavouring to provide that some justice, having proper jurisdiction, should attend at the place where the lunatic might be living, whether at his own place of abode or at the workhouse, to hear and investigate the case, and make the proper order of removal. Should this be found impracticable the Board did not doubt that the magistrates sitting at police courts would, so far as might be possible, arrange that the examination might be taken in a private room. Due care should be taken that the proper medical assistance be rendered in these cases, and that the investigation, while free from the excitement of an open court, should be so conducted as that no doubts might arise as to the order having been issued after full deliberation and with all necessary regularity.

See also Commissioner's circular quoted under section 16, *ante*, p. 174.

When lunatic
may be
treated as a
pauper.

18. A justice shall not sign an order for the reception of a person as a pauper lunatic into an institution for lunatics, or workhouse, unless he is satisfied that the alleged pauper is either in receipt of relief, or in such circumstances as to require relief for his proper care. If it appears by the order that the justice is so satisfied, the lunatic shall be deemed to be a pauper chargeable to the union, county, or borough properly liable for his relief. A person who is visited by a medical officer of the union, at the expense of the union, is, for the purposes of this section, to be deemed to be in receipt of relief.

Object of Enactment.—The section is directed against the practice of signing orders for the reception as pauper lunatics of lunatics alleged to be paupers, without any satisfactory evidence of destitution or the receipt of relief. See 9th Rep., p. 34, and 18th Rep., p. 84. In future there must be evidence to satisfy the justice of the destitution of the alleged pauper, or of the actual receipt of relief, and any doubt as to whether the visits of the district medical officer constitute a receipt of relief or not, is settled by the express enactment that a person who is visited by a medical officer of the union at the expense of the union is for the purposes of this section to be deemed to be in receipt of relief. If there are persons legally liable to maintain the alleged lunatic, and able to pay for the cost of his maintenance as a private patient, he ought not to be sent to an institution for lunatics as a pauper lunatic. Accommodation for private patients of the poorer class exists in some of the county asylums, in the registered

hospitals, and in certain of the licensed houses, and justices ought not to allow the accommodation provided for actual paupers and destitute persons to be taken up by those for whose care and treatment as private patients relatives legally bound to maintain them are able to pay. The average weekly cost per head for maintenance of private patients in the county asylums and registered hospitals is about seventeen shillings and upwards.

Form.—See the Form of Order for the Reception of a Pauper Lunatic, Form 12 in the Second Schedule, *post*, p. 463. As to the use of this Form, see section 339, *post*, p. 447.

Expenses.—As to liability for expenses of maintenance and incidental expenses, see sections 286—298, *post*, pp. 393—411.

19. (1.) A justice making an order for the reception of a lunatic otherwise than upon petition, in this Act called a “summary reception order,” may suspend the execution of the order for such period not exceeding fourteen days as he thinks fit, and in the meantime may give such directions or make such arrangements for the proper care and control of the lunatic as he considers proper.

Section 18.
NOTE.
Suspension of removal under reception order.

See section 21, *post*, p. 180, as to temporary removal of the lunatic to a workhouse.

(2.) If a medical practitioner who examines a lunatic as to whom a summary reception order has been made, certifies in writing that the lunatic is not in a fit state to be removed, the removal shall be suspended until the same or some other medical practitioner certifies in writing that the lunatic is fit to be removed, and every medical practitioner who has certified that the lunatic is not in a fit state to be removed shall, as soon as in his judgment the lunatic is in a fit state to be removed, be bound to certify accordingly.

[Medical certificate as to removal.]

Lunatics not under Proper Care.—In the case of a lunatic as to whom a summary reception order has been made under section 13, *ante*, it is sufficient to suspend his removal under the order if either of the medical practitioners who, upon the direction of the judicial authority, examined him and certified as to his mental condition, certifies that he is not in a fit state to be removed.

20. If a constable, relieving officer, or overseer is satisfied that it is necessary for the public safety or the welfare of an alleged lunatic with regard to whom it is his duty to take any proceedings under this Act, that the alleged lunatic should, before any such proceedings can be taken, be placed under care and control, the constable, relieving officer, or overseer may remove the alleged lunatic to the workhouse of the union in

Removal of lunatic to workhouse in urgent cases.

Section 20. which the alleged lunatic is, and the master of the workhouse shall, unless there is no proper accommodation in the workhouse for the alleged lunatic, receive and relieve, and detain the alleged lunatic therein, but no person shall be so detained for more than three days, and before the expiration of that time, the constable, relieving officer, or overseer shall take such proceedings with regard to the alleged lunatic as are required by this Act.

Medical Responsibility.—The sole responsibility for taking action under this section rests upon the constable, relieving officer, or overseer, and if for his own satisfaction he takes the opinion of a medical man upon the case before taking action, the medical man will not be responsible for the alleged lunatic, even if he acts negligently in giving his opinion: *Thompson v. Schmidt* (1891), 56 J. P. 212; 8 T. L. R. 120.

Duty of Workhouse Master.—It will be seen that the master of the workhouse is not bound to receive and detain the alleged lunatic therein if there is no proper accommodation for him in the workhouse.

Duty of Constable, &c.—It will be observed that a person brought to the workhouse under this section is not to be detained therein for more than three days; and it will be the duty of the officer bringing him from the workhouse, before the expiration of the three days, to give the notice, or lay the information and bring the alleged lunatic before a justice under sections 13, 14, and 15, *ante*. In reckoning the three days, Sunday, &c., must be included. See 57 J. P. 236.

Expenses.—The expenses incurred by the guardians in the removal of an alleged lunatic, not being a pauper and not wandering at large, to the workhouse, and for his maintenance there, and for bringing him before a justice, are recoverable as necessities at common law, even where the justice finds the alleged lunatic of sound mind and makes no reception order: *West Ham Union v. Pearson* (1890), 62 L. T. 638; 54 J. P. 645.

As to the construction of the term “satisfied,” it has been held that “the section said nothing about its being the duty of the relieving officer to take reasonable care to satisfy himself that it was necessary to remove the alleged lunatic. It said simply that he was to be satisfied that it was necessary to take that course.” *Harward v. Hackney Union*, 1898, 14 T. L. R. 306; 62 J. P. 227.

Temporary removal of lunatic to workhouse under order of justice.

21. (1.) In any case where a summary reception order might be made, any justice, if satisfied that it is expedient for the welfare of the lunatic, or for the public safety, that the lunatic should forthwith be placed under care and control, and if it appears to him that there is proper accommodation for the lunatic in the workhouse of the union in which the lunatic is, may make an order for taking the lunatic to and receiving him in that workhouse.

Definition of "union," section 341, *post*, p. 454.

Section 21.

NOTE.

Order by Special Justice.—In the case of a lunatic, not being a pauper and not wandering at large, who is not under proper care and control or is cruelly treated or neglected by any person having the care or charge of him, an order under this sub-section for his removal to the workhouse instead of to an institution for lunatics, should be made by a specially appointed justice; see section 13 (1), *ante*, p. 170.

Previous Medical Examination.—An order cannot be made under this sub-section, except in a case where a summary reception order might be made, and therefore it appears to be necessary that all the conditions precedent to the making of a summary reception order must have been fulfilled including the necessary medical examination and certificate under sections 13 or 16 as the case may be. The repeal by section 94 of the Lunacy Act, 1889, 52 & 53 Vict. c. 41, of so much of sections 67 and 68 of the Lunatic Asylums Act, 1853, 16 & 17 Vict. c. 97, as provided that a justice might act upon his own knowledge only, is strongly in favour of this opinion. However, a contrary view has been expressed in 54 J. P. 539, 540.

(2.) In any case where a summary reception order has been made, an order under this section may be made to provide for the detention of the lunatic until he can be removed.

Removal of Females.—The guardians should take the necessary steps for ensuring that a female should accompany female lunatics on their removal from the workhouse to an asylum.

(3.) An order under this section shall not authorise the detention of a lunatic in a workhouse for more than fourteen days, after which period such detention shall not be lawful, except in accordance with the provisions of this Act as to the detention of lunatics in workhouses. [Duration of order.]

Computation of Time.—The fourteen days should be reckoned from the date of the order, and exclusively of that date.

Expenses.—The expenses of maintenance during temporary detention are part of the expenses of carrying the order into effect under section 285, *post*. See 56 J. P. 365.

Further Detention.—As to the provisions of this Act as to the detention of lunatics in workhouses, see section 24, *post*, p. 183.

(4.) An order under this section may be made by any justice having jurisdiction in the place where the lunatic is. [Jurisdiction.]

It is, therefore, not necessary that the justice making the summary reception order should be the same person as the justice making the order under this section: but he must have jurisdiction in the place where the lunatic is, and, in the case of a lunatic not being a pauper and not wandering at large, but not under proper care or control, or cruelly treated or neglected by any person having the care or charge of him, it seems that the justice must also be a judicial authority for the locality. See notes to sub-section (1) of this section.

Section 22.**NOTE.**

Power to allow a relation or friend to take charge of a lunatic.

[Lunacy of soldiers and sailors in naval service.]

22. In the case of a lunatic as to whom a summary reception order may be made nothing in this Act shall prevent a relation or friend from retaining or taking the lunatic under his own care if a justice having jurisdiction to make the order, or the visitors of the asylum in which the lunatic is or is intended to be placed, shall be satisfied that proper care will be taken of the lunatic.

In the case of the lunacy of a soldier, upon his discharge a Secretary of State may send him to the union to which he is chargeable, or in the event of such soldier being a dangerous lunatic he may be sent direct to an asylum, the order having the same effect as a Summary Reception Order.

The evidence required to ascertain his chargeability may be obtained from his attestation papers, corroborated by other information. Army Acts, 1881, section 91, 1889 section 5, 1891, section 6, and 1894, section 5. Sailors in the naval service may be similarly dealt with. Naval Enlistment Act, 1884, section 3.

In *Chertsey v. Surrey*, 69 L. T. 384, 57 J. P. 807, the attestation paper of pauper lunatic soldier stated he was born in the parish of Chertsey in Surrey.

A reception order by Secretary of State for War was made for his reception in county asylum. No information could be obtained from the lunatic and no inquiries could discover whether he had had a settlement at any time in Chertsey. The justices acting on attestation paper refused to make an order on the county. It was held on appeal that the order was wrong, and the case was remitted to make an order on the county, the attestation paper not being sufficient evidence of a settlement.

Reception Order by two Commissioners.

Commissioners may send pauper lunatic to an institution for lunatics.

Form 8.

23. (1.) Any two (a) or more Commissioners may visit a pauper lunatic or alleged lunatic not in an institution for lunatics, or workhouse, and may, if they think fit, call in a medical practitioner.

(2.) If the medical practitioner signs a medical certificate with regard to the lunatic, and the Commissioners are satisfied that the pauper is a lunatic, and a proper person to be detained they may by order direct the lunatic to be received in an institution for lunatics, and the relieving officer of the district or any constable who may by them be required so to do shall forthwith convey the lunatic to such institution.

Form.—Form of Medical Certificate, Form 8 in the Second Schedule, *post*, p. 460. As to the use of this Form, see section 339, *post*, p. 447.

Wilful mis-statement of any material fact in such certificate is a misdemeanor, section 317 (2), *post*, p. 430.

Protection of person signing certificate or executing order, section 330, *post*, p. 437.

Expenses.—As to payment of expenses, see section 298, *post*, p. 410.

(a) See Order in Council, 9th March, 1914, cited under section 150, *post*, p. 301.

Lunatics in Workhouses.

Section 24.

24. (1.) Except in the cases mentioned in this Act, no person shall be allowed to remain in a workhouse as a lunatic unless the medical officer of the workhouse certifies in writing—

- (a.) That such person is a lunatic, with the grounds for the opinion; and
- (b.) That he is a proper person to be allowed to remain in a workhouse as a lunatic; and
- (c.) That the accommodation in the workhouse is sufficient for his proper care and treatment, separate from the inmates of the workhouse not lunatics, unless the medical officer certifies that the lunatic's condition is such that it is not necessary for the convenience of the lunatic or of the other inmates that he should be kept separate.

This section supersedes section 45 of the Poor Law Amendment Act, 1834, and section 22 of the Poor Law Amendment Act, 1867, except as regards the detention of persons suffering from *delirium tremens* or from bodily disease of a contagious or infectious character, and those enactments are repealed to that extent by section 342 and the Fifth Schedule, *post*, p. 455.

Exceptional Cases.—As to the exceptional cases mentioned in this Act, see sections 20 and 21, *ante*, pp. 179, 180, sub-section (8) of this section, *post*; sections 25 and 26, *post*, pp. 186, 187, and section 4 (1) of the Lunacy Act, 1891, *post*, p. 473.

Form.—Form of Certificate as to Pauper Lunatic in a Workhouse, Form 10 in the Second Schedule, *post*, p. 461. As to the use of this Form, see section 339, *post*, p. 447.

The medical superintendent of an asylum provided under the Metropolitan Poor Act, 1867, 30 Vict. c. 6, is not required to certify to the effect in sub-section (c.) above-mentioned. See the Lunacy Act, 1891, 54 & 55 Vict. c. 65, s. 4 (2), *post*, p. 473.

Wilful mis-statement of any material fact in any certificate is a misdemeanor, section 317 (2), *post*, p. 430.

Protection of persons signing certificates, section 330, *post*, p. 437.

There seems to be no reason why the same certificate may not relate to several paupers, provided that their several names, and the necessary particulars with respect to each of them are duly inserted therein, and that they are all in the workhouse when such certificate is signed.

(2.) A certificate under this section shall be sufficient authority for detaining the lunatic therein named against his will in the workhouse for fourteen days from its date. [Duration of certificate.]

At the end of the fourteen days there must be a justice's order under the next sub-section, or the workhouse medical officer must take action under sub-section (6), *post*, p. 185.

Section 24. But upon the transfer from a workhouse to any asylum provided under the Metropolitan Poor Act, 1867, of a lunatic with regard to whom a certificate or order under this section made while he was in the workhouse is in force, no further certificate or order is required for his detention in such asylum. See section 4 (2) of the Lunacy Act, 1891, *post*, p. 473.

NOTE.

[Justice's order.]

Form 11.

(3.) No lunatic shall be detained against his will or allowed to remain in a workhouse for more than fourteen days from the date of a certificate under this section without an order under the hand of a justice having jurisdiction in the place where the workhouse is situate.

Form.—Form of Order for Detention of Lunatic in Workhouse, Form 11 in the Second Schedule, *post*, p. 462. As to the use of this Form, see section 339, *post*, p. 447.

Section 5 of the Lunacy Act, 1891, *post*, requires that there shall be attached to every order made by a justice under section 24 of this Act, the medical certificates on which such order is founded.

Personal Examination.—It does not appear to be necessary that the justice making the order should personally see or examine the lunatic before making it: 55 J. P. 458. As to the justices' clerk's fee for drawing up the order, see notes to section 16, *ante*, p. 176.

[Application for order.]

Forms 8, 10.

(4.) The order in the last preceding sub-section mentioned may be made upon the application of a relieving officer of the union to which the workhouse belongs, supported by a medical certificate under the hand of a medical practitioner, not being an officer of the workhouse, and by the certificate under the hand of the medical officer of the workhouse hereinbefore mentioned.

See note to preceding sub-section.

Forms.—Form of Medical Certificate by the medical practitioner, Form 8 in the Second Schedule, *post*, p. 460.

Form of Certificate by the workhouse medical officer, Form 10 in the Second Schedule, *post*, p. 461.

As to the use of these Forms, see section 339, *post*, p. 447.

Medical Practitioner.—There is no reason why any district medical officer of the union or parish should not give the former certificate, or it may be given by the workhouse medical officer's deputy, for the deputy is not an officer of the workhouse: 55 J. P. 236.

[Medical fee.]

(5.) The guardians of the union to which the workhouse belongs, shall pay such reasonable remuneration as they think fit to the medical practitioner who, not being an officer of the workhouse, examines a person for the purpose of a certificate under this section.

This sub-section enables the guardians to remunerate the medical practitioner, not being the workhouse medical officer or his assistant, for

examining a person with a view to a certificate in support of an application for an order of detention in the workhouse. If this certificate is given by a district medical officer, there seems to be no reason why the guardians should not remunerate him for it under this sub-section, as he is not an officer of the workhouse, and it is no part of his regular duty to examine any of the lunatics therein. Section 24.

—
NOTE.

The guardians are not empowered to grant the workhouse medical officer any remuneration, beyond his salary, for certificates given under this section, because his duty to give such certificates will have been taken into account in fixing his salary. Besides, it being part of his duty to be constantly at the workhouse for the purpose of attending to the health of the inmates, the examination of the lunatics therein does not involve any substantial addition to his labours. It is submitted that the guardians can remunerate the workhouse medical officer's deputy if he signs the other certificate under this section, because he is not an officer of the workhouse, nor is he obliged to supply attendance to the inmates of the workhouse at the cost of the medical officer of the workhouse, except in case of that officer's absence from home or other hindrance to his personal attendance.

(6.) If, in the case of a lunatic being in a workhouse, the medical officer thereof does not sign such certificate as in sub-section one of this section mentioned, or if at or before the expiration of fourteen days from the date of the certificate an order is not made under the hand of a justice for the detention of the lunatic in the workhouse, or, if after such an order has been made, the lunatic ceases to be a proper person to be detained in a workhouse, the medical officer of the workhouse shall forthwith give notice in writing to a relieving officer of the union to which the workhouse belongs [*that a pauper in the workhouse is a lunatic and a proper person to be sent to an asylum*], and thereupon the like proceedings shall be taken by the relieving officer and all other persons for the purpose of removing the lunatic to an asylum, and within the same time, as by this Act provided in the case of a pauper deemed to be a lunatic and a proper person to be sent to an asylum, and, pending such proceedings, the lunatic may be detained in the workhouse. [Removal from workhouse to asylum.]

The words in italics have been repealed by the Lunacy Act, 1891, s. 29, and Schedule, *post*, p. 488.

Proceedings for Removal.—As to the proceedings for the removal of the lunatic to an asylum, see sections 14, 16, and 19, *ante*, pp. 172, 174, 179.

As to the asylum, see section 27, *post*, p. 187; also sections 6 and 8 of the Lunacy Act, 1891, *post*, pp. 474, 475.

(7.) In the case of a lunatic in an asylum provided for reception and relief of the insane under the Metropolitan Poor Act, 1867, notices to be given to and proceedings to be taken by a [Metropolitan asylum imbeciles.]
30 & 31 Vict. c. 6.

Section 24. relieving officer shall be given to and taken by one of the officers of the asylum to be nominated for the purpose by the managers of the asylum district.

An Asylum under the Metropolitan Poor Act, 1867, is included under the definition of a workhouse, section 341, *post*, p. 454.

[Paupers
certified
under pre-
vious Act.]
25 & 26 Vict.
c. 111.

(8.) As regards every pauper in a workhouse at the date of the commencement of this Act, as to whom a certificate has been signed under section twenty of the Lunacy Acts Amendment Act, 1862, no certificate or order of a justice under this section shall be required.

No order of a justice under this section is required in the case of any pauper suffering from mental disease in a workhouse on the 1st May, 1890, as to whom a report had before that date been made under section 22 of the Poor Law Amendment Act, 1867. See Lunacy Act, 1891, s. 4 (1), *post*, p. 473.

Power to
send dis-
charged
pauper not
recovered
to a work-
house.

25. Where a pauper lunatic is discharged from an institution for lunatics, and the medical officer of the institution is of opinion that the lunatic has not recovered and is a proper person to be kept in a workhouse as a lunatic, the medical officer shall certify such opinion, and the lunatic may thereupon be received and detained against his will in a workhouse without further order if the medical officer of the workhouse certifies in writing that the accommodation in the workhouse is sufficient for the lunatic's proper care and treatment, separate from the inmates of the workhouse not lunatics, or that the lunatic's condition is such that it is not necessary for the convenience of the lunatic, or of the other inmates, that he should be kept separate.

Copy Certificate for Commissioners.—A copy of the certificate of the medical officer of the institution for lunatics must accompany the notice of discharge to be forwarded to the Commissioners under the Rules of the Commissioners in Lunacy, June 26, 1895, Rule 23 (4).

Pauper Lunatic discharged to Metropolitan Imbecile Asylum.—On the 30th January, 1891, the Local Government Board issued an Order (with an explanatory circular) providing that in the case of any pauper lunatic discharged from an institution for lunatics under this section, and taken direct to an asylum of the metropolitan asylum district with a certificate from the medical officer of the institution, to the effect that he is a proper person to be detained in a workhouse as a lunatic, the certificate and report mentioned in the order of the Board dated the 10th February, 1875, and in the case of a child, the examination and report prescribed by the order of the Board, dated the 5th May, 1890, may be dispensed with (21st Ann. Rep. Local Government Board, p. lxxix.). This Order of the 30th January, 1891, will be found in the Statutory Rules and Orders, 1891, p. 461.

26. (1.) The visitors of any asylum may, with the consent of the Local Government Board and the Commissioners, and subject to such regulations as they respectively prescribe, make arrangements with the guardians of any union for the reception into the workhouse of any chronic lunatics, not being dangerous, who are in the asylum and have been selected and certified by the manager of the asylum as proper to be removed to the workhouse.

Section 26.
Chronic lunatics may be received in work-houses in certain cases.

Chargeability of Lunatics.—It is not necessary that the chronic lunatics should be chargeable to the parish or union into the workhouse of which they are to be received, but they may be chargeable to any parish or union. (See 17th Rep., p. 23 ; 18th Rep., p. 73.)

New Buildings.—Where there is no excess of accommodation in a workhouse, boards of guardians have no statutory or other authority under which they can, at the cost of the poor rates, enlarge the workhouse, or erect wards expressly for the reception and maintenance of chronic lunatics belonging to other unions or separate parishes under this section. (19th Rep., p. 40.)

Applications to Commissioners.—Having regard to the object of the section, the Commissioners in Lunacy are of opinion that all applications for their approval should originate with visitors of asylums and not with boards of guardians. (18th Rep., p. 74.)

As to the conditions of the approval of the Commissioners in Lunacy, see 17th Rep., p. 24 ; 18th Rep., p. 74.

An example of prescribed regulations will be found in the 48th Rep., pp. 370—372.

(2.) Every lunatic received in a workhouse under this section shall, while he remains there, continue a patient on the books of the asylum for the purposes of this Act so far as it relates to lunatics removed to asylums.

[Patients kept on asylum books.]

The effect of this sub-section is that the removal of the chronic lunatics to the workhouse does not affect their subsequent treatment, removal, discharge, and chargeability, or the rights of the guardians of the union or parish to which they are chargeable to take proceedings for rendering their property (if any) available for their maintenance. (See 21st Rep., p. 32 and App. (H.) ; 22nd Rep., p. 86 ; 23rd Rep., p. 92.)

Institutions in which Lunatics may be received.

27. (1.) Subject to the restrictions in this section mentioned, every summary reception order, and every reception order made by two or more Commissioners, may authorise the reception of the lunatic named in the order not only into an asylum of the county or borough in which the place from which the lunatic is sent is situate, but also into any other institution for lunatics.

Institutions to which lunatics may be removed.

Section 27. As to summary reception orders, see sections 13—22 inclusive, and 24 (6), *ante*, pp. 170—182, 185.

NOTE.

As to reception orders by Commissioners, see section 23, p. 182.

With regard to the institution to which the lunatic may be sent, compare section 13 (3).

(Special circumstances if lunatic sent elsewhere.)

(2.) A lunatic shall not under any such order be sent elsewhere than to an asylum of the county or borough in which the place from which he is sent is situate, unless there is no such asylum, or there is a deficiency of room, or there are some special circumstances by reason whereof the lunatic cannot conveniently be taken to such asylum, and the deficiency of room or special circumstances shall be stated in the order.

See notes to preceding sub-section.

See also notes to Forms of Summary Reception Orders, Forms 12 and 15 in the Second Schedule, *post*, pp. 463, 465.

See also as to lunatics sent from the workhouse of a union situate in more than one county, section 68, *post*, p. 225. And as to lunatics sent from a workhouse situate in a county which does not include the union to which the workhouse belongs, see section 6 of the Lunacy Act, 1891, *post*, p. 474.

As to when an asylum is to be deemed full, see section 275 (4), *post*, p. 383.

As to other special circumstances, see section 275 (5), p. 383.

Duty of Superintendent when Asylum full.—If a lunatic be sent to the asylum for the county or borough in which the place from which he is sent is situate, and on his arrival, the asylum is found to be full or for other special reasons he cannot be taken in, the superintendent should send him back to the judicial authority or justice making the reception order with a written statement of the reasons why he cannot be taken in, in order that the judicial authority or justice may state the circumstances in the order on sending him elsewhere. See 56 J. P. 125.

(3.) A pauper lunatic shall not be received under an order into any asylum other than an asylum belonging wholly or in part to the county or borough in which the place from which the lunatic is sent or the parish in which he is adjudged to be settled is situate, unless there is a subsisting contract for the reception of lunatics of such county or borough therein, or such borough otherwise contributes to the asylum into which the pauper is to be received, except the order is endorsed by a visitor of that asylum.

As to contracts for the reception of lunatics, see sections 243, 269, *post*, pp. 361, 377.

As to contributory boroughs, see sections 244—246, *post*, pp. 362, 363.

(4.) The manager of a hospital or licensed house shall not be bound to receive any lunatic under any such order except in pursuance of a subsisting contract.

See also notes to preceding sub-section.

Requirements of Reception Orders and Medical Certificates. Section 28.

28. (1.) Every medical certificate under this Act shall be made and signed by a medical practitioner.

Medical
certificates.

Definition of "medical practitioner," section 341, *post*, p. 451.

Certificate signed out of Jurisdiction.—Having regard to the provisions of section 2, *ante*, and to the fact that medical practitioners not residing within the jurisdiction would not be liable to penalties for material mis-statements under section 317 (2), *post*, it seems that medical certificates, signed out of England or Wales, as, for instance, in Scotland or Ireland, even though signed by duly qualified medical practitioners, are not such certificates as are contemplated by this Act, nor receivable under it. Consequently all such persons as to whom it may be desired to obtain certificates under this Act should first be brought within the jurisdiction with a view to the necessary personal examination before the certificate can be signed (see section 29, *post*) by a duly qualified medical practitioner residing within the jurisdiction. See 20th Rep., p. 48.

Material details in Certificate.—There is no doubt that the statement in a medical certificate under this Act that the person signing it is registered under the Medical Act, 1858, is a statement of a material fact within the meaning of section 317 (2), so as to render any unregistered medical practitioner wilfully signing such a certificate guilty of a misdemeanor. See *Reg. v. Ogilvie* and *Reg. v. Torbock* (1872), 27th Rep., pp. 80—83; 28th Rep., p. 78.

The omission of the full postal address of the medical practitioner signing the certificate will not necessarily invalidate it. See *Reg. v. Minster* (1850), 14 Q. B. 349.

(2.) Every medical certificate upon which a reception order is founded shall state the facts upon which the certifying medical practitioner has formed his opinion that the alleged lunatic is a lunatic, distinguishing facts observed by himself from facts communicated by others; and a reception order shall not be made upon a certificate founded only upon facts communicated by others.

[Statement
of facts.]

Definition of "reception order," section 341, *post*, p. 453.

Sufficiency of Facts indicative of Insanity.—It would seem that this sub-section, so far as it requires the statement of facts upon which the opinion of the certifying medical practitioner has been formed is merely directory; consequently, if it is stated that the alleged lunatic labours under delusions of various kinds without specifying them, and that she is dirty and indecent in the extreme (provided, of course, that these were facts observed by the certifying medical practitioner himself) it would seem that such a certificate is sufficient; *Re Shuttleworth* (1846), 9 Q. B. 651; 16 L. J. M. C. 18; 11 Jur. 41; 2 New Sess. Cas. 470. Not so, if the certificate merely states that the alleged lunatic has a general suspicion of the motions of every person: *Re Fell* (1846), 3 D. & L. 373; 15 L. J. M. C. 25.

Section 28. Or that the alleged lunatic merely exhibited a stupid, sulky temper: *Case of E. A.*, 17th Rep., p. 39. If the sub-section is to the above extent rightly

NOTE.

to be regarded as directory only, the reason may, perhaps, be found in the fact that the certifier is to be a person of professional knowledge and skill. If, therefore, facts, which of themselves alone may reasonably justify the formation of an opinion of insanity by such a person, are stated to have been observed by the certifier himself, the certificate will be regarded as sufficient, otherwise not. It is, however, the practice of the Board of Control to return certificates when necessary for further particulars as to the nature or example of delusions or propensities. (See section 34, *post*.)

Facts Personally Observed.—Some of the facts stated as having been observed by the certifying practitioner himself must be stated as having been observed at the time of the examination mentioned in section 29, *post* (see Form of Medical Certificate, Form 8, in the Second Schedule, *post*), 15th Rep., pp. 65, 66.

Names of Informants.—The names of the persons (if any) furnishing facts indicative of insanity not observed by the certifier himself, together with their addresses, should be given. In the case of private patients it had long been the practice of the Commissioners in Lunacy to require the names of informants, but they stated they would be glad to have both names and addresses made a statutory requirement in all cases. The form of medical certificate, Form 8 in the Second Schedule, *post*, accordingly requires that the names and Christian names (if known) of informants must be given with their addresses and descriptions, 33rd Rep., p. 128.

Mis-statements.—Wilful mis-statement of any material fact in a medical certificate is a misdemeanor, section 317 (2), *post*, p. 430.

Amendment.—As to amendment of defective certificates, see section 34, *post*, p. 194.

[Statement of expediency.]
Form 9.

(3.) The medical certificate accompanying an urgency order shall contain a statement that it is expedient for the welfare of the alleged lunatic or for the public safety that he should be forthwith placed under care and treatment, with the reasons for such statement.

[Certificate as evidence.]

(4.) Every medical certificate made under and for the purposes of this Act shall be evidence of the facts therein appearing and of the judgment therein stated to have been formed by the certifying medical practitioners on such facts, as if the matters therein appearing had been verified on oath.

Proof of Certificate.—It will still be necessary in legal proceedings to prove the date and signature of the certificate. See 55 J. P. 379. Also the fact that the party by whom it is signed is a duly registered medical practitioner, see section 341, *post*, defining “medical practitioner,” p. 451.

Time and manner of medical examination of lunatic.

29. (1.) A reception order shall not be made unless the medical practitioner who signs the medical certificate, or where two certificates are required, each medical practitioner who signs a

certificate, has personally examined the alleged lunatic in the case of an order upon petition not more than seven clear days before the date of the presentation of the petition, and in all other cases not more than seven clear days before the date of the order. Section 29.

Material details in Certificate.—There can be no doubt that the date and place of examination are material facts within the meaning of section 317 (2) so as to render any medical practitioner wilfully mis-stating them in his certificate guilty of a misdemeanor. Under the 9 Geo. 4, c. 41, which did not prescribe any particular form of medical certificate, it was made a misdemeanor to sign a certificate without having visited and personally examined the patient to whom it related, although there was no intent to deceive. *Rex v. Jones* (1831), 2 B. & Ad. 611.

If the certificate omits to specify the street and number of the house and other like particulars respecting the place of examination, it will be held insufficient on *habeas corpus* for the discharge of the lunatic, and the lunatic will be discharged unless it be shown that it would be dangerous to himself or the public to set him at liberty: *Reg. v. Pinder*, 24 L. J. Q. B. 148 1 Jur. (N.S.) 522.

Computation of Time.—In reckoning the time under this sub-section, both the date of the medical examination and the date of the presentation of the petition, or the date of the order, must be excluded.

The date of the presentation of the petition must appear upon the petition itself. See section 23 of the Lunacy Act, 1891, *post*, p. 485.

Relative dates of Certificates and Orders.—It is necessary that the medical certificates accompanying a petition for a reception order should be dated not later than the date of the presentation of the petition, because by section 6 (1), *ante*, they must be considered by the judicial authority upon the presentation of the petition. In the case of a summary reception order under section 13, *ante*, the certificates must be dated not later than the date of the order, because the judicial authority must under that section proceed in the same manner as far as possible as if a petition had been presented. And in the case of a summary reception order under section 16, *ante*, the certificate must be dated at least not later than the same day as the order, because the justice has, under that section, no authority to make the order unless the certificate has been signed. But in the case of an urgency order the order may be signed either before or after the certificate, see section 11 (2), *ante*, p. 169.

In any case under section 13, *ante*, if the judicial authority has adjourned under section 6 (4), *ante*, for more than seven clear days from the date of the certificates no order can be made without fresh certificates. See 57 J. P. 218.

(2.) Where two medical certificates are required, a reception order shall not be made unless each medical practitioner signing a certificate has examined the alleged lunatic separately from the other. [Separate medical examination.]

Section 29. See notes to preceding sub-section.

NOTE.

Two medical certificates are required in support of a petition, see section 4 (2), *ante*, and in the case of a lunatic not under proper care and control, or cruelly treated or neglected, see section 13 (2), *ante*.

[Date of medical examination in case of urgency.]

(3.) In the case of an urgency order, the lunatic shall not be received under the order unless it appears by the medical certificate accompanying the order that the certifying medical practitioner has personally examined the alleged lunatic not more than two clear days before his reception.

Persons disqualified for signing certificates.

30. A medical certificate accompanying a petition for a reception order or accompanying an urgency order shall not be signed by the petitioner or person signing the urgency order, or by the husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner or assistant of such petitioner or person.

It will be observed that the present section does not extend to step-relationships nor to relationships or partnerships with the judicial authority to whom the petition is presented, but while there is nothing definite in this Act to prevent a medical certificate being given by a practitioner who is related to the judicial authority who signs the reception order, this section forbids him to give a certificate in similar circumstances in the case of an urgency order.

Since the medical certificates are referred to upon the reception order as accompanying the petition (see Sched. 2, form 3, *post*) and therefore are necessary adjuncts thereto, it would probably be considered as against the spirit of the Act on the principle that a man cannot petition himself that one of the medical certificates and the reception order should be signed by the *same* person. The Act, however, does not apparently expressly forbid it.

As to petitions for reception orders, see section 4, *ante*, p. 156.

As to urgency orders, see section 11, *ante*, p. 167.

Usual medical attendant to sign medical certificate in case of private patient, if possible.

31. One of the medical certificates accompanying a petition for a reception order shall, whenever practicable, be under the hand of the usual medical attendant, if any, of the alleged lunatic. If for any reason it is not practicable to obtain a certificate from such usual medical attendant, the reason shall be stated in writing by the petitioner to the judicial authority to whom the petition is presented, and such statement shall be deemed to be part of the petition.

Patients not to be received

32. (1.) No person shall be received or detained as a lunatic in any institution for lunatics, or as a single patient, where any

certificate accompanying the reception order has been signed by **Section 32.**
any of the following persons :—

- (a.) The manager of the institution or the person who is to have charge of the single patient : under certificates by interested persons.
- (b.) Any person interested in the payments on account of the patient :
- (c.) Any regular medical attendant in the institution :
- (d.) The husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, or the partner or assistant of any of the foregoing persons.

It will be observed that the foregoing prohibitions do not extend to any partner, assistant, or relation of the judicial authority or justice making the reception order : see 55 J. P. 732, 797. Nor do they extend to step-relationships : see 36 Sol. Journ. 37. See note to section 30, *ante*, p. 192.

(2.) Neither of the persons signing the medical certificates in support of a petition for a reception order shall be the father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, or the partner or assistant of the other of them. [Certificates for private patients.]

Limits of Prohibition.—It will be observed that this sub-section does not extend to the case of husband and wife like the preceding sub-section (35 Sol. Journ. 168 ; 36 Sol. Journ. 37) ; nor to step-relationships (36 Sol. Journ. 37) ; nor to any partner, assistant, or relation of the judicial authority making the reception order (55 J. P. 732, 797).

See note to section 30, *ante*, p. 192.

(3.) No person shall be received as a lunatic in a hospital under an order made on the application of, or under a certificate signed by, a member of the managing committee of the hospital. [Certificates for reception into hospital.]

Definition of "hospital," section 341, *post*, p. 449.

33. A medical practitioner who is a Commissioner or a visitor shall not sign any certificate for the reception of a patient into a hospital or licensed house, unless he is directed to visit the patient by a judicial authority under this Act, or by the Lord Chancellor, or a Secretary of State, or a committee appointed by the Judge in Lunacy. [Commissioners and visitors not to sign certificates.]

Visitors.—"A visitor" means one of the visitors of licensed houses appointed under section 177, *post*. The prohibition does not appear to be limited with respect to such visitors to certificates for reception into

Section 33. licensed houses within their own district only. It does not extend to certificates for reception into a county or borough asylum. See 55 J. P. 733.

NOTE.

Secretary of State.—By section 12 (3) of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, it is enacted that, in that Act and in every other Act, whether passed before or after the commencement of that Act, unless the contrary intention appears, the expression “Secretary of State” shall mean one of Her Majesty’s principal Secretaries of State for the time being.

Lord Chancellor.—The definition of “the Lord Chancellor” from the same Act has been already cited in the notes to section 10 (3), *ante*, p. 166.

Judge in Lunacy.—As to the Judge in Lunacy, and the appointment of a committee, see section 108, *post*, p. 250.

Amendment
of orders and
certificates.

34. (1.) If an order or certificate for the reception of a lunatic is, after such reception, found to be in any respect incorrect or defective, such order or certificate may, within fourteen days next after such reception, be amended by the person who signed the same. No amendment shall be allowed unless the same receives the sanction of the Commissioners, or of some one of them, and (in the case of a private patient) the consent of the judicial authority by whom the order for the reception of the lunatic may have been signed.

Immaterial Alterations.—An alteration of an order made after reception without the sanction of the Commissioners, but in an immaterial particular, will not invalidate the order so as to prevent the manager of the institution from relying on it to justify the detention of the lunatic: *Lowe v. Fox* (1887), 12 App. Cas. 206; 56 L. J. Q. B. 480; 56 L. T. (N.S.) 406; 51 J. P. 468; 36 W. R. 25.

Orders not made by Special Justices.—As to orders made by justices not duly appointed under section 10, *ante*, see the Lunacy Act, 1891, s. 24 (3), *post*, p. 485.

[Powers of
Commissioners on
defective
certificates.]

(2.) If the Commissioners deem any such certificate to be incorrect or defective, they may, by a direction in writing, addressed to the manager of the institution for lunatics, or to the person having the charge of a single patient, require the same to be amended by the person who signed the same, and if the same be not duly amended to their satisfaction within fourteen days next after the reception of the patient, the Commissioners, or any two of them, may, if they think fit, make an order for the patient’s discharge.

It will be observed that this sub-section applies only to certificates, and not to orders; but in practice it is also applied to amending minor or clerical defects in reception orders.

Practice as to Discharge.—As to the service of orders of discharge made

by the Commissioners, and as to giving notice thereof and penalties for further detention, see section 76, *post*, p. 231. Section 34.

The Commissioners sometimes recommend the discharge of the patient otherwise than by their own order, with a view that the patient should be immediately re-certified: see Hansard's Parl. Deb. 3rd Series, vol. cccvi., p. 1254. NOTE.

(3.) Every order and certificate amended under this section shall take effect as if the amendment had been contained therein when it was signed.

35. (1.) A reception order, if the same appears to be in conformity with this Act, shall be sufficient authority for the petitioner or any person authorised by him, or in the case of an order not made upon petition for the person authorised so to do by the person making the order, to take the lunatic and convey him to the place mentioned in such order and for his reception and detention therein, and the order may be acted on without further evidence of the signature or of the jurisdiction of the person making the order. Authority for reception.

Irregular Orders.—It will be observed that this sub-section only applies to reception orders *appearing to be in conformity with this Act*. There is no part of the duty of the medical superintendents of asylums, the resident medical officers or superintendents of hospitals, and the resident licensees of licensed houses, that requires greater care than the examination of reception orders and accompanying documents on the admission of lunatics into the asylum, hospital, or licensed house. If the order and accompanying documents are not in proper form, the medical superintendent, resident medical officer, or licensee may be liable to a prosecution under section 315, *post*, if he receives or detains the patient, or to an action for false imprisonment. See section 330, *post*, p. 437. See also 17th Rep., pp. 31, 32, and Appendix (J).

Detention of Sane Persons.—A reception order in proper form will justify the reception or detention of the person therein named by the authorities of the institution or by the person to whom it is directed, although the person therein named is not, in fact, a lunatic: *Norris v. Seed* (1849), 3 Exch. 782; 18 L. J. Ex. 300; 13 Jur. 830; *Mackintosh v. Smith*, 4 Macq. H. L. C. 913.

Enforcing Orders in Private Cases.—There is no statutory means of enforcing the execution of a reception order made upon petition. See 55 J. P. 476.

(2.) In the case of a reception order made upon petition the order, together with the petition, statement of particulars, and medical certificates upon which the order was made, shall be delivered or sent by post to the person on whose petition the order was made, and shall by him or his agent be delivered [Delivery of documents with private patients.]

Section 35. to the manager of the institution for lunatics in which, or to the person by whom, the lunatic is to be received.

Service by Post.—As to sending the reception order and accompanying documents by post, see section 26 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63.

Fresh order and certificates not to be required in certain cases.

36. (1.) Where a reception order has been made, and the execution of the order has been suspended, or the lunatic named in the order has been temporarily taken to a workhouse under the provisions of this Act, he may be received in the institution for lunatics named in the order at any time within fourteen days after the date of the reception order.

Definition of “institution for lunatics,” section 341, *post*, p. 450.

This sub-section only relates to summary reception orders: see, as to suspending such orders, section 19, *ante*, p. 179, and as to temporary removal to a workhouse, section 21, *ante*, p. 180.

(2.) If the removal of the lunatic has been suspended by reason of a medical certificate that the lunatic is not in a fit state for removal, the lunatic may be received in the institution for lunatics named in the order within three days after the date of a medical certificate that the lunatic is in a fit state to be removed.

As to the suspension of summary reception orders on medical certificates, see section 19 (2), *ante*, p. 179.

(3.) In all other cases a reception order shall cease to be of any force unless the lunatic has been received thereunder before the expiration of seven clear days from its date.

This sub-section applies to all reception orders, including orders made on petition, and orders made by Commissioners, as well as summary reception orders. An urgency order, however, is only in force for seven days from its date and expires on the eighth day.

Order and certificate to remain in force in certain cases.

37. (1.) An order for the reception of a patient as a pauper shall extend to authorise his detention though it may afterwards appear that he is entitled to be classified as a private patient, and an order required for the reception of a private patient shall authorise his detention although it may afterwards appear that he ought to be classified as a pauper patient.

Definitions of “pauper” and “private patient,” section 341, *post*, p. 452.

The Commissioners in Lunacy required that notice should be given to them of any change of classification under that section. See the 17th Report, Appendix (K.), pp. 169, 170.

Classification.—As to the classification of lunatics sent to an institution or lunatics under summary reception orders, see section 3 of the Lunacy Act, 1891, *post*, p. 473. Section 37.
NOTE.

(2.) If a patient is removed temporarily under the provisions of this Act from the place in which he is confined, or is transferred from one place of confinement to another, the original order and certificate or certificates upon which he was received shall remain in force.

A patient may be removed temporarily under section 55 of this Act, *post*, p. 214, or may be transferred under sections 56—70, *post*, pp. 217—226.

Duration of Reception Orders.

38. (1.) Every reception order [*dated after or within three months before the commencement of this Act,*] shall expire at the end of one year from its date, [*and any such order dated three months or more before the commencement of this Act shall expire at the end of one year after the commencement of this Act*] unless [*such orders respectively are*] continued as hereinafter provided. Duration of reception orders.

The words in brackets were repealed by the Statute Law Revision Act, 1908.

As to the continuation of orders, see sub-section (4) of this section.

(2.) In the case of any institution for lunatics the Commissioners may by order under their seal direct that the reception orders of patients detained therein shall, unless continued as hereinafter provided, expire on any quarterly day next after the days on which the orders would expire under the last preceding sub-section. [Reception orders in institutions.]

It does not apply to any order for the reception of a single patient.

(3.) An order for the removal of a patient from one custody to another shall not be deemed to be a reception order within this section, but the patient who is removed shall after removal be deemed to be detained under the original reception order as a lunatic, and such order shall expire in accordance with the provisions of this section, unless continued as hereinafter provided. [Patients detained under original order after removal.]

As to orders for removal, see sections 58—70, inclusive, *post*, pp. 220—226.

(4.) A reception order shall remain in force for a year after the date by this Act or by an order of the Commissioners appointed for it to expire, and thereafter for two years, and thereafter for three years, and after the end of such periods of one, [Continuation of reception orders by special reports as]

Section 38. two, and three years for successive periods of five years, if not more than one month nor less than seven days before the expiration of the period at the end of which, as fixed by this Act or by an order of the Commissioners under sub-section two, the order would expire, and of each subsequent period of one, two, three, and five years respectively, a special report of the medical officer of the institution or of the medical attendant of the single patient as to the mental and bodily condition of the patient with a certificate under his hand certifying that the patient is still of unsound mind and a proper person to be detained under care and treatment is sent to the Commissioners.

amended by
Lunacy Act,
1891; see
note below.]

The sub-section, as here set out, was substituted for the original sub-section by section 7 of the Lunacy Act, 1891, 54 & 55 Vict. c. 65, *post*. It has been thought better to insert it here for convenience of reference in the place of the original sub-section, and to omit the original sub-section altogether because the amendments introduced by this sub-section are purely formal.

Form.—It will be observed that the repeal of the original sub-section consequentially repeals the form of certificate that patient continues of unsound mind: Form 13 in the second schedule to this Act. See now Form 20 in the schedule to the Commissioner's Rules, 26th June, 1895, *post*, p. 551.

No change of form is, however, thereby introduced, for the Commissioners had already superseded that form by forms prescribed by and appended to their Circular Letter, dated 16th April, 1890, see *post*, p. 570.

[Computation
of time.]

A reception order, in practice, expires at the end of the year, *i.e.* if it is dated 1st January, it expires on 31st December, and not on 1st January of the following year.

This practice is not in keeping with the finding of the court as to the computation of time in *South Stafford Tramways v. Sickness, etc., Association*, [1891] 1 Q. B. 402; 63 L. T. 807, and in *Sheffield Corporation v. Sheffield Electric Light Co.*, [1898] 1 Ch. 203.

[Periods for
sending certi-
ficates for
continuation
of reception
order.]

With regard to the periods for sending certificates to keep the reception order in force, the construction in practice of this part of the Act is to send such certificate, not more than one month and not less than seven days (exclusive of posting, eight days in all) before the expiration of the 1st, 2nd, 4th, and 7th year respectively and then every succeeding five years.

Compare the more simple provisions for similar certificates under the Mental Deficiency Act, 1913, s. 11 (2), *post*, p. 769.

Wilful mis-statement of any material fact in such certificate is a misdemeanor, section 317 (2), *post*, p. 430.

[Further
information
on special
reports.]

(5.) The person sending the special report shall give to the Commissioners such further information concerning the patient to whom the special report relates as they require.

Penalty for failure to give information, section 320, *post*, p. 431.

Annual Reports on Single Patients.—In the case of single patients, in addition to the special reports required under this section, annual reports by the medical practitioner visiting such patient or in whose charge such patient may be, are required to be furnished to the Commissioners, by the Rules of the Commissioners in Lunacy, 26th June, 1895, R. 17, *post*. Section 38.

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NOTE.

(6.) If in the opinion of the Commissioners the special report does not justify the accompanying certificate, then— [Discharge on special reports.]

(a.) In the case of a patient in a hospital or licensed house or under care as a single patient, the Commissioners shall make further inquiry, and if dissatisfied with the result they or any two (a) of them may by order direct his discharge :

(b.) In the case of a patient in an asylum, the Commissioners shall send a copy of the report, with any other information in their possession relating to the case, to the clerk to the visiting committee of the asylum, and the committee, or any three of them, shall thereupon investigate the case and may discharge the patient or give such directions respecting him as they may think proper.

As to orders of discharge by the Commissioners, see section 76, *post*, p. 231.

(7.) The manager of any institution for lunatics, and any person having charge of a single patient, who detains a patient after he has knowledge that the order for his reception has expired, shall be guilty of a misdemeanor. [Offences.]

(8.) The special reports and certificates under this section may include and refer to more than one patient. [Several patients under one report.]

(9.) A certificate under the hand of the secretary to the Commissioners that an order for reception has been continued to the date therein mentioned shall be sufficient evidence of the fact. [Evidence of extension of reception order.]

Proof of Certificate.—It will be necessary, however, in any legal proceedings in which such certificate is offered in evidence, to prove the date of it and the signature and official position of the secretary to the Commissioners.

(10.) This section shall not apply to lunatics so found by inquisition.

Somewhat similar provisions are, however, applicable to lunatics so found under section 115 of this Act.

(a) See now Order in Council, 9th March, 1914, quoted under section 150, *post*, p. 301, as to the number of Commissioners required to do any act.

PART II.

CARE AND TREATMENT.

Reports after Reception.

Section 39. 39. (a) (1.) The medical officer of every institution for lunatics, and the medical attendant of every single patient, shall at the expiration of one month after the reception of a private patient prepare and send to the Commissioners a report as to the mental and bodily condition of the patient, in such form as the Commissioners direct.

Reports upon and visits to private patients.

Form.—As to the form of this Report, see the Rules of the Commissioners in Lunacy, 26th June, 1895, R. 9, and schedule form 13, *post*, pp. 529, 548.

Wilful mis-statement of any material fact in such report is a misdemeanor, section 317 (2), *post*, p. 430.

[Copy report for visitors.] (2.) The medical officer of every house licensed by justices shall also at the same time send a copy of such report to the clerk of the visitors of licensed houses in the county or borough where the house is situate to be by him laid before the visitors.

[Visit to patient in metropolitan licensed house.] (3.) The Commissioners, after receiving the report upon any patient in a licensed house within their immediate jurisdiction, shall make arrangements for a visit being paid as soon as conveniently may be to the patient by one or more of the Commissioners; and the Commissioner or Commissioners so visiting shall report to the Commissioners whether the detention of the patient is or is not proper.

Immediate Jurisdiction.—As to the immediate jurisdiction of the Commissioners, see section 208 (1), and the Third Schedule, *post*, pp. 340, 469.

On receipt of the report the Commissioners may discharge the patient, see sub-section (9) of this section, *post*, p. 202.

(a) By section 8 of the Lunacy Act, 1891, 54 & 55 Vict. c. 65, *post*, p. 475, this section does not apply to lunatics received under an order of removal (see sections 58—70, *post*, pp. 220—226, nor to lunatics so found by inquisition.

(4.) The visitors, after receiving the report, shall, in every case of a private patient in a licensed house in the county or borough for which the visitors are appointed, make arrangements for a visit being paid by the medical visitor (either alone or with one or more of the other visitors) to the patient therein named for such purpose as aforesaid, as soon as conveniently may be; and if on such visit there appears to be any doubt as to the propriety of the detention of the patient, such visitor or visitors shall forthwith report the same in writing to the Commissioners, who shall thereupon make all such further inquiries as may be necessary to satisfy themselves whether the patient is properly detained as a lunatic, or whether he ought to be discharged, or whether the case ought to be reported to the Lord Chancellor with a view to an inquisition. Section 39.

[Visit to patient in provincial licensed house.]

Medical Fees.—As to the remuneration of the medical visitor, see sections 177 (12) and 225, *post*, pp. 316, 345.

(5.) In the case of a single patient the Commissioners, after receiving the report, shall either make arrangements for a visit being paid as soon as conveniently may be to the patient therein named by one or more of the Commissioners, or, if no Commissioner is available, shall cause a copy of the report to be sent to a medical visitor for the county or borough in which the single patient resides, or to some other competent person, and shall direct him to visit the patient therein named as soon as conveniently may be. The Commissioner or Commissioners, or other person visiting the patient, shall report to the Commissioners whether his detention is or is not proper. [Visit to single provincial patient.]

(6.) The person directed to visit a single patient under the last preceding sub-section shall for that purpose have all the powers of a Commissioner and the Commissioners may, with the consent of the Treasury, pay to him such reasonable remuneration for his services as they think fit out of any funds which may be provided by Parliament to defray the general expenses of the Commissioners. [Fee for visiting single patient.]

Powers of Commissioners.—As to the powers of the Commissioners in Lunacy in the visitation of single patients, see sections 198—200, inclusive, *post*, pp. 329, 330.

Treasury.—By section 12 (2) of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, it is enacted that in that Act and in every other Act whether passed before or after the commencement of that Act, unless the contrary intention appears, the expression “the Treasury” shall mean the Lord

Section 39. High Treasurer for the time being or the Commissioners for the time being of Her Majesty's Treasury.

NOTE.

Fee for Visit.—The remuneration granted under this sub-section to the medical visitor of the county or borough where the single patient is, will be in addition to his ordinary salary under section 177 (12), *post*, p. 316.

Expenses of Commissioners.—As to the funds provided by Parliament to defray the general expenses of the Commissioners, see p. 784, *post*.

[Visit to private patient in public institution.]

(7.) In the case of a private patient in an asylum or hospital, the Commissioners, after receiving the report, shall either make arrangements for a visit being paid, as soon as conveniently may be, to the patient therein named by one or more of the Commissioners, who shall report to the Commissioners whether the detention of the patient is or is not proper; or the Commissioners shall send a copy of the report to the clerk to the visiting committee of the asylum or to the managing committee of the hospital, and one or more members of the committee shall thereupon, as soon as conveniently may be, visit the patient named in the report and report to the committee whether his detention is or is not proper, and the committee, or any three of them, may, upon consideration of such last-mentioned report, by writing under their hands, discharge the patient or give such directions with regard to him as they think fit.

[When special visit unnecessary.]

(8.) If within a month after the reception of any private patient, the institution for lunatics or house into which he was received is visited by one or more Commissioners or by any visitors, and such patient is there seen and examined by him or them, and the propriety of his detention reported on in like manner as by this section provided, no special visit shall necessarily be paid to such patient after receipt of any such report.

[Discharge by Commissioners.]

(9.) If the Commissioners in any case under this section determine that a patient ought to be discharged they may make an order for his discharge.

Mechanical Restraint.

Mechanical means of restraint.

40. (1.) Mechanical means of bodily restraint shall not be applied to any lunatic unless the restraint is necessary for purposes of surgical or medical treatment, or to prevent the lunatic from injuring himself or others.

As to mechanical "means," see sub-section (6) of this section.

Disuse of Mechanical Restraint.—In 1882 the Commissioners in Lunacy

said that the general abolition of instrumental or mechanical restraint in all English asylums, hospitals, and licensed houses rendered unnecessary any remarks on a system of non-coercion : 36th Report, p. 91. Section 40.

NOTE.

Restraint at Common Law.—It may, however, be here observed that upon the trial of William Roberts before Lord CAMPBELL, C.J., at the Carnarvonshire Summer Assizes in 1853, for unlawfully confining and imprisoning his lunatic brother in an improper, excessive, and cruel manner, Lord CAMPBELL, C.J., distinctly laid it down that the use of restraint, greater in degree, more severe in character, or longer in duration than is necessary for the security and care of a lunatic, is an offence at common law, punishable on indictment : 8th Report, p. 37.

(2.) In every case where such restraint is applied a medical certificate shall, as soon as it can be obtained, be signed, describing the mechanical means used, and stating the grounds upon which the certificate is founded. [Medical certificate of restraint.]

(3.) The certificate shall be signed, in the case of a lunatic in an institution for lunatics or workhouse, by the medical officer thereof, and in the case of a single patient, by his medical attendant. [Signature of certificate.]

(4.) A full record of every case of restraint by mechanical means shall be kept from day to day ; and a copy of the records and certificates under this section shall be sent to the Commissioners at the end of every quarter. [Register of mechanical restraint.]

See also the Rules of the Commissioners in Lunacy, 25th June, 1895, Rule 5, and Schedule, Form 5, as to the Register of Mechanical Restraint, *post*, pp. 527, 545.

(5.) In the case of a workhouse, the record to be kept under this section shall be kept by the medical officer of the workhouse, and the copies of records and certificates to be sent shall be sent by the clerk to the guardians. [Register in workhouse.]

In the case of an asylum provided under the Metropolitan Poor Act, 1867, it is apprehended that the managers are the proper persons to whom to send the record. See section 341, *post*, p. 454. Definition of Workhouse.

(6.) In the application of this section “mechanical means” shall be such instruments and appliances as the Commissioners may, by regulations to be made from time to time, determine. [Definition.]

As to regulations by the Commissioners, see section 338 (1), *post*, p. 445. See also Regulation of the Commissioners, dated 25th June, 1913, *post*, p. 564.

(7.) Any person who wilfully acts in contravention of this section shall be guilty of a misdemeanour. [Offences.]

See fifty-sixth Commissioner's Report, p. 71, *Rex v. Buchanan* for successful prosecution for the improper use of mechanical restraint.

Section 41.

Correspondence.

Letters of
patients.

41. (1.) The manager of every institution for lunatics, and every person having charge of a single patient, shall forward unopened all letters written by any patient and addressed to the Lord Chancellor or any Judge in Lunacy, or to a Secretary of State, or to the Commissioners, or any Commissioner, or to the person who signed the order for the reception of the patient, or on whose petition such order was made, or to the Chancery Visitors or any Chancery Visitor or to any other visitor or visitors or to the visiting committee, or any member of the visiting committee of the institution, in which any patient writing such letters may be, and may also at his discretion forward to its address any other letter if written by a private patient.

This sub-section is a re-enactment of section 46 (1) of the Lunacy Act, 1889, 52 & 53 Vict. c. 41, extending its provisions so as to include letters addressed to the Chancery visitors, or any of them. Section 46 of the Act of 1889 superseded section 40 of the Lunacy Act, 1862, 25 & 26 Vict. c. 111. By that enactment every letter written by a private patient in any institution for lunatics, or by any single patient, if addressed to the Commissioners or visiting committee, or in the case of licensed houses licensed by justices to the visitors, or any of them, were to be forwarded unopened unless special regulations to the contrary were given by the Commissioners or visiting committee or visitors. And every such letter addressed to any other person was to be forwarded unopened unless the superintendent, or proprietor, or person in charge endorsed it "not to be sent," in which case he had to lay it before the visiting Commissioners, committee, or visitors at their next visit. And with reference to this enactment, the Lunacy Commissioners in 1876 said, "It is very rarely that we have had occasion to suspect that such letters addressed to ourselves have been detained contrary to law; but a few instances have occurred where other letters not so addressed have been forwarded to the person who signed the order of reception instead of being laid before ourselves or the visitors, on the next visit, as the law requires:" 30th Report, p. 78. Accordingly, the Commissioners issued a circular (30th Report, Appendix O.), desiring stricter compliance with the Act. They added, however, that "It is, we think, obvious that some restriction must be placed on the correspondence of persons of unsound mind. For, besides the necessity of avoiding, as a matter of treatment, the excitement and anxiety of epistolary discussions of topics of business or painful domestic events, many letters, written by patients, though perhaps coherent and intelligibly expressed, are either indecent or libellous, or for other good reasons ought not to be forwarded to their destination."

With reference to the same subject, the Select Committee of 1878 (Report, p. vii.) said that "several witnesses attached much importance to the concession of greater freedom of correspondence to patients, as a

valuable security against infringement of personal liberty. It was said that the power of opening letters exercised by superintendents excited the suspicions of patients; and that it was a great hardship on Chancery lunatics that their letters were sent to the committee of the person, who was responsible to no one for the way in which he dealt with them. It was proposed that a post box should be kept in the asylum and cleared by a public officer, but this would be objectionable on account of the character of many of the letters, and the difficulty with regard to postage. The present system of the superintendent retaining those letters which are not forwarded for the inspection of the visitors is said to entail great labour on the visitors, and to occupy much of their time which might be better employed. It is plainly almost impossible to prevent the fraudulent suppression of letters, but probably the best plan would be that the superintendent might, at his discretion, allow letters to go to the addresses unopened, but that all not so forwarded, including those of the Chancery patients, should be sent unopened to the Commissioners on the day on which they were delivered to him."

Section 41.

NOTE.

The Lunacy Commissioners, on the other hand, in their 33rd Report, on p. 137, said: "In spite of any evidence to the contrary which may have been brought before the Committee, we do not believe (and we conceive ourselves peculiarly well able to judge of such a matter) that any real grievance exists as to the detention of patients' letters under the present system, which requires all those addressed to us, the visitors, and committees of hospitals, to be forwarded unopened, the rest to be exhibited to the officials on their next visit. We may remark, parenthetically, that the Committee lay under some misconception as to the amount of labour occasioned by the examination of letters detained. The majority of them, being obviously unfit for transmission, are easily dealt with on the spot. We must very strongly object to the proposal of the Committee that all letters of patients not forwarded by the medical superintendent should be sent to us unopened. This would be a great grievance to the patients themselves. It is impossible that we should have in every case that full information as to the patient's exact state of mind at the time of writing, his family affairs, and other circumstances, which would enable us to judge whether a letter coherently expressed, and not containing matter of an obviously improper character, ought or ought not to be sent to the person to whom it is addressed. If a letter were in the end kept back, the patient would gain nothing; if it were posted it might not be until after several days' delay, and after critical examination in a public office. The Committee themselves remark that it is plainly almost impossible to prevent the fraudulent suppression of letters. The scheme which they suggest will certainly not prevent it, supposing a medical superintendent thought it worth his while to suppress them."

Letters of Pauper Patients.—It will be observed that whereas section 40 of the Lunacy Act, 1862, 25 & 26 Vict. c. 111, expressly referred to the letters of private patients only, the present enactment extends to the letters of *any* patient addressed to the Lord Chancellor, the Judge in Lunacy, the Home Secretary, or the Commissioners in Lunacy, or any of them, &c.

Practice in Home Office.—In the case of letters of lunatics addressed to

Section 41. the Home Secretary it is not the custom for the Home Secretary to reply officially, but when a letter is received from any lunatic which is tolerably coherent, it is at once referred to the Commissioners in Lunacy for special inquiry and report, and the action taken thereon by the Commissioners is held to be a sufficient answer to the letter of the patient, and a guarantee that his complaints have been attended to. Hansard Parl. Deb., 3rd series, vol. 343, p. 130.

NOTE.

[Offences as to correspondence.]

(2.) Every manager of an institution for lunatics, and every person having charge of a single patient who makes default in complying with the obligation imposed on him by this section shall for each offence be liable to a penalty not exceeding twenty pounds.

Notices.

Notices as to letters and interviews.

42. (1.) Whenever the Commissioners so direct, there shall, unless there is no private patient therein, be posted up in every institution for lunatics, printed notices setting forth—

- (a.) The right of every private patient to have any letter written by him forwarded in pursuance of the last preceding section ;
- (b.) The right of every private patient to request a personal and private interview with a visiting Commissioner or visitor at any visit which may be made to the institution.

This sub-section is a re-enactment of section 47 (1) of the Lunacy Act, 1889, 52 & 53 Vict. c. 41. That section was passed to give effect to the recommendation of the Select Committee of 1878 (Report, p. vii.), that printed notices should be affixed to the walls of the principal rooms of all asylums, setting forth the right of appeal to the Commissioners by letter, or of interview with them or the visitors personally, and the privilege of letter-writing as above. This recommendation was adopted by Parliament, subject to a discretion being given to the Commissioners as to the posting of the notices in order to avoid causing excitement which might prove injurious to the patients. See Hansard Parl. Deb., 3rd series, vol. 338, p. 1742.

[Posting of notices.]

(2.) The notices shall be posted in the institution, so that every private patient may be able to see the same.

[Directions for posting.]

(3.) The visiting Commissioners or visitors may give directions as to the places in which such notices are to be posted.

[Offences as to notices.]

(4.) If the manager of any institution for lunatics makes default in posting such notices, or does not within ten days carry out any directions as to such notices given by the visiting Commissioners or visitors, he shall for each offence be liable to a penalty not exceeding twenty pounds.

*Medical Attendance.***Section 43.**

43. (1.) A medical practitioner who has signed a certificate upon which a reception order in the case of a private patient has been made shall not be the regular professional attendant of the patient while detained under the order.

Persons
disqualified
to be medical
attendants
of lunatic.

(2.) A medical practitioner, who is a Commissioner or visitor, shall not professionally attend upon a patient in a hospital or licensed house, unless he is directed to visit the patient by the person on whose petition the reception order was made, or by the Lord Chancellor, or a Secretary of State, or a committee appointed by the Judge in Lunacy.

44. (1.) The Commissioners may by order direct how often any single patient is to be visited by a medical practitioner.

Medical
attendance
on single
patients.

Definition of "medical practitioner," section 341, *post*, p. 451.

Single Patient.—As to the meaning of the expression "single patient," see notes to section 4 (1), *ante*, p. 156.

Duties of Medical Attendant.—As to the duties of a medical attendant of a single patient, see the Rules of the Commissioners in Lunacy 26th June 1895, 4 (2), 8 (4), 9, 16, 17, 20, 21, 23 (1), 27 *post*, pp. 527 *seq.*, see also p. 556.

(2.) Until any such order is made, every single patient shall be visited once at least in every two weeks by a medical practitioner not deriving, and not having a partner, father, son, or brother who derives, any profit from the charge of the patient.

Limits of Prohibition.—It will be observed that the derivation of profit by step-relations does not necessarily disqualify a medical practitioner from becoming or being the medical attendant of a single patient. Moreover, the sub-section does not mention the mother and wife, daughter or sister of the medical attendant; nor his father or mother-in-law, son or daughter-in-law, brother or sister-in-law; nor his uncle or aunt, nephew or niece. Nor, having regard to the fact that women may now obtain medical qualifications, is there any reference to the husband of the medical attendant.

(3.) Any two Commissioners may direct that the medical attendant of a single patient shall cease to act in that capacity, and that some other person be employed in his place.

(4.) If a person having charge of a single patient fails to give effect to any direction of the Commissioners under this section, he shall be guilty of a misdemeanor.

(5.) This section shall not apply to lunatics so found by inquisition.

45. The Commissioners may at any time require from the medical attendant of a single patient a report in writing as to

Special report
as to single
patient.

Section 45. the patient, in such form and specifying such particulars as the Commissioners direct, and such report shall be in addition to any periodical reports required to be sent to the Commissioners.

Periodical Reports.—As to periodical reports, see section 38 (4), as re-enacted by section 7 of the Lunacy Act, 1891, 54 & 55 Vict. c. 65, *ante*, p. 197, and the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 17, p. 532.

Power to take more than one Lunatic as a Single Patient.

Power to take more than one person on same conditions as a single patient.

46. In the case of any person having charge of a single patient, if the Commissioners are satisfied that it is desirable, under special circumstances and for the interest of the patient that another patient or more than one other should reside in the same house, that person may, with the approval of the Commissioners, receive such other patient or patients on the same terms and conditions in all respects as if each of them were a single patient.

See as to receiving two or more lunatics in an unlicensed house without the sanction of the Commissioners, section 315 (2), *post*, p. 429.

Visits of Friends.

Admission to patients of friends, relations, and others.

47. (1.) Any one of the Commissioners, as to patients confined in an institution for lunatics or other place (not being a gaol) authorised to be visited by the Commissioners, and any one of the visitors of a licensed house, as to patients confined in such house, may at any time give an order in writing under his hand for the admission to any patient of any relation or friend or of any medical or other person whom any relation or friend desires to be admitted to him.

The Select Committee of 1878, in their Report, p. vii., said: "The greater the publicity the more efficient the safeguards against undue detention as well as against treatment of a nature calculated to retard cure. The old system of turning an asylum into a resort of sightseers has happily passed away with other enormities. But the opposite system of total exclusion from the outside world must be as intolerable to many of the unhappy patients. The exercise in walled yards, the want of communication with friends, the sense of imprisonment, are productive of irritation and antagonistic to speedy recovery."

"The Committee were told that the system of unlocked doors, the liberty of walking alone in, and in many cases outside the grounds, and the almost uncontrolled admission of visitors, have the best effect, and though objections are made of the character of those formerly urged against the abolition of mechanical restraint, yet these regulations were being extended throughout the three Kingdoms. At the same time the Committee think that

there should be power of refusing admission to persons desiring an interview with a patient on business matters, for they received evidence which led them to believe that there are cases in which unscrupulous persons have taken advantage of the mental weakness of patients for their own selfish purposes, and that such interviews have a tendency to agitate and distress the patients. The Committee, however, recommend that a statement of the grounds of such refusal of admission should be entered in the case-book, and at once transmitted to the Commissioners." With reference to this passage of the Report, the Commissioners in Lunacy, in their 33rd Report, at p. 137, said that there could be no possible objection to the recommendation of the Committee that the grounds of refusal by superintendents to permit access to patients be entered in the case-book and communicated to the Commissioners.

Section 47.

NOTE.

See *ex parte Beecham*, Jeune Pres., 1901 P. 65. In this case a married woman, detained in an asylum, instructed her solicitor to institute proceedings against her husband for judicial separation. The asylum authorities refused access to the patient by her solicitor and the Commissioners upheld this decision. The court upon motion made an order that the Commissioners should forthwith authorise the superintendent of the asylum to permit the solicitor to have access.

See also the Circular of the Commissioners as to dealing by patients with their property, 35th Report, Appendix (O.), cited in the notes to section 50 (2), *post*, p. 211.

(2.) The order of admission may be either for a single admission or for an admission for a limited number of times, or for admission generally at all reasonable times, and with or without any restriction as to the presence of an attendant or otherwise.

(3.) If the manager or principal officer of any institution or place refuses, prevents, or obstructs the admission to any patient of any person who produces an order of admission, he shall for every offence be liable to a penalty not exceeding twenty pounds.

Appointment of Substitute for Person who Applied for Reception Order.

48. (1.) The Commissioners may by order substitute for the person upon whose petition a reception order was made, and either during the life of such person or after his death, any other person who is willing to undertake the duties and responsibilities of the petitioner.

Power to appoint substitute for the person who applied for reception order.

(2.) As from the date of an order by the Commissioners under this section the substituted person shall be subject to all the obligations and may exercise all the powers and authorities

[Powers and duties of substitute.]

Section 48. in relation to the patient of the person for whom he is substituted.

See note to preceding sub-section.

As to the obligations, powers, and authorities here referred to, see section 5 (3), *ante* ; section 41 (1), *ante* ; section 43 (2), *ante* ; section 55 (5), *post* ; section 56 (4), *post* ; section 58, *post* ; section 72 (1), *post* ; and section 76, *post*, pp. 158, 204, 207, 216, 218, 220, 227, 231.

[Continuing liabilities of petitioner.]
[Consent of petitioner.]

(3.) The substitution shall not release the petitioner or his estate from any liabilities already incurred by him.

(4.) An order under this section may be made with or without the consent of the petitioner, but in the last-mentioned case the order shall not be made during his life until fourteen days after the Commissioners have given to him notice in writing of their intention to take into consideration the advisability of making an order under this section and of the name of the person proposed to be substituted.

[Objections by petitioner.]

(5.) Within fourteen days after receipt of the notice the person to whom the notice is given may lay before the Commissioners a statement in writing of his reasons why an order under this section should not be made, or he may appear in person before the Commissioners at such time and place and subject to such restrictions as the Commissioners may appoint for the purpose of stating such reasons. The Commissioners shall, upon consideration of such statement, or, if no statement is made, at their own discretion, finally determine the matter, and make or decline to make the order, as they may think fit.

All communications should be left or sent under cover addressed to—

The Secretary,

Board of Control,

66, Victoria Street,

S.W.

[Posting of notice.]

(6.) A notice under this section may be sent by post to the last-known address of the petitioner.

Sending by Post.—The petitioner will be deemed to have received the notice at the time when the same would arrive in due course of post. See section 26 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63.

Examination of Lunatic.

Provision for any person to apply to have patient examined.

49. An order for the examination by two medical practitioners, authorised by the Commissioners, of any person detained as a lunatic in any institution for lunatics, or as a

single patient, may be obtained from the Commissioners upon the application of any person, whether a relative or friend or not, who satisfies the Commissioners that it is proper for them to grant such order; and on production to the Commissioners of the certificates of the medical practitioners so authorised, certifying that after two separate examinations with at least seven days intervening between the first and the second examination, they are of opinion that the patient may, without risk or injury to himself or the public, be discharged, the Commissioners may order the patient to be discharged at the expiration of ten days from the date of the order. Section 49.

The Commissioners have a discretion under this section to refuse the discharge of a patient, notwithstanding the production of two medical certificates to the effect that the lunatic may be discharged without risk either to himself or the public. *Reg. v. Commissioners in Lunacy* (1897), 1 Q. B. 630.

Inquiries as to Property.

50. (1.) Where any person is detained as a lunatic and the Commissioners represent to the Lord Chancellor that it is desirable that the extent and nature of his property, and its application, should be ascertained, the Lord Chancellor may, if he think fit, through the Masters, require that the person upon whose petition the reception order under which the lunatic is detained was made, or other the person paying for the care and maintenance of the lunatic or having the management of his property, shall transmit to the Lord Chancellor a statement in writing, to the best of his knowledge, of the particulars of the property of the lunatic and of its application. Inquiries as to property.

Management and Administration of Property.—By section 116 (1) (c), *post*, p. 260, the powers and provisions of Part IV. of this Act relating to management and administration of property apply to every person lawfully detained as a lunatic, though not so found by inquisition.

(2.) The Commissioners may also, whenever they think it expedient, make inquiries as to the property of any person detained as a lunatic.

By section 100, *post*, p. 246, an inquisition may be ordered on the report of the Commissioners that the property of the lunatic is not duly protected, or that the income thereof is not duly applied for his benefit. And in cases where an inquisition is unnecessary, owing to the operation of the Lunacy Act, 1908 (*post*), proceedings may be taken under the special provisions of section 116, *post*, for the appointment of a Receiver.

Section 50. Proceedings for an inquisition are now rarely adopted as, owing to the application of section 1 of the Lunacy Act, 1908, *post*, it is generally sufficient and more effective to proceed under one of the sub-sections of section 116 of the Act of 1890, *post*. If, however, it is desired to appoint a committee of the person as well as of the estate, an inquisition would still be necessary, as section 116, *post*, does not provide for the appointment of anyone with analogous duties to those of the committee of the person.

NOTE.

Dealings with Property by Persons detained as Lunatics.—In connection with the above sub-section, it may be observed that dealings with property by persons detained as lunatics should never be allowed by superintendents or other persons in charge of such patients. Persons in charge should not only refuse to allow patients to execute deeds or sign documents, but where they have cause to suspect the patient's friends of any intention to procure such signatures they should take steps to prevent it. Where it becomes necessary to deal with the property belonging to any person detained as a lunatic or vested in him as a trustee or otherwise, resort should always be had to the provisions of the statute applicable to the circumstances. 35th Rep., p. 126, and Appendix (O.).

The principle upon which inequitable and unconscientious transactions between guardian and ward, &c., may be set aside, extends to transactions between the keeper of a house for lunatics and the persons under his charge, including voluntary boarders: *Wright v. Proud* (1806), 13 Ves. 136.

Application for a Search.

Power for a Commissioner or visitor to direct a search whether a particular person has been confined.

51. (1.) If any person applies to a Commissioner in order to be informed whether any particular patient is confined in any institution for lunatics, or other place subject to the visitation of the Commissioners, the Commissioner, if he thinks fit, may sign an order to the secretary of the Commissioners, who shall search amongst the returns made to the Commissioners, whether the person inquired after is or has been within the last twelve months confined.

[Information by Secretary of Commission.]

(2.) If it appears that the patient is or has been so confined, the secretary shall deliver to the applicant a statement in writing, specifying the situation of the institution or place in which the patient appears to be or to have been confined, and also (so far as the secretary can ascertain the same from any register or return in his possession) the name of the manager or principal officer of the institution or place, and the date of admission, and (in case of the patient's removal or discharge) the date of his removal or discharge.

[Search for patient in provincial licensed house.]

(3.) If any such application is made to a visitor as to any licensed house within his jurisdiction, the visitor may make the like order upon the clerk to the visitors, who shall make search

among the returns made to him, and deliver to the applicant the like statement as to any such licensed house as the secretary of the Commissioners is by this section required to make and deliver. Section 51.

(4.) The applicant shall pay to the person required to make a search under this section such sum not exceeding seven shillings as the Commissioners or visitors fix. [Search fees.]

Diet.

52. (1.) The visiting Commissioners may determine and regulate the diet of the pauper patients in any hospital or licensed house. Diet of patients.

(2.) The visitors of a licensed house shall have the like power as to that house, subject, nevertheless, to any direction the visiting Commissioners may give.

Inquiries as to Diet.—By section 194, *post*, the visiting Commissioners and visitors are, at every visit to a hospital or licensed house, to inquire as to the diet of pauper patients (if any).

Diet in Asylums.—In county and borough asylums the visiting committee determine the diet of the patients, under section 275 (6), *post*, and the visiting Commissioners are, by section 187 (1), *post*, required on their annual visits to make inquiry as to the dietary of pauper patients.

Employment of Males in care of Females.

53. It shall not be lawful to employ any male person in any institution for lunatics in the personal custody or restraint of any female patient, and any person employing a male person contrary to this section shall be liable to a penalty not exceeding twenty pounds. Provided that this section shall not extend to prohibit or impose a penalty on the employment of male persons on such occasions of urgency as may in the judgment of the manager of the institution render such employment necessary, but the manager shall in each case report the employment to the visiting Commissioners or visitors at their next visit. Males not to be employed in personal custody of females.

Limits of Prohibition.—It will be observed that this section does not apply expressly to the custody or restraint of female patients during transfer or removal to or from an institution for lunatics. See notes to section 21 (2), *ante*, p. 181, and section 24 (6), *ante*, p. 185. It does not apply as regards the custody or restraint of female lunatics in a workhouse, or in an asylum provided by the Managers of the Metropolitan Asylum District, or as to single patients.

Section 54.

Book to be kept in Workhouse.

Book to be
kept in work-
house.

54. (1.) The visiting guardians of every union shall, once at least in each quarter, enter in a book to be provided and kept by the master of the workhouse, such observations as they may think fit to make respecting the diet, accommodation, and treatment of the lunatics or alleged lunatics in the workhouse.

(2.) Such book shall be laid by the master before the Commissioner or Commissioners at his or their next visit.

Treatment.—The Commissioners in Lunacy were of opinion that the legislature were desirous of securing a periodical and full investigation by the guardians of the mental and bodily condition of all the pauper lunatics detained in the workhouse; and that therefore the word “treatment” should be considered as having reference not only to the medical care of the patients, but as affecting their moral and general treatment also, and would include inquiries as to the provision made for their exercise, occupation, and amusement, and the state of their persons, clothing, and bedding, and to the conduct and efficiency of the attendants, whether paid or otherwise, who may be appointed to take care of them.

Certificates of Workhouse Medical Officer.—The certificates of the medical officer of the workhouse under section 24, *ante*, should be kept by the master of the workhouse and laid by him before the visiting Commissioners together with this book. See notes to section 24 (1), p. 183.

Absence on Trial or for Health.

Absence on
trial or for
health.

55. (1.) Any two visitors of an asylum, with the advice in writing of the medical officer, may permit a patient in the asylum to be absent on trial so long as they think fit.

The period for which leave is given is not indefinite, it may be granted for one or two weeks up to three months and extended for further periods up to nine months, but seldom longer unless there are some unusual or urgent circumstances.

Definitions of “asylum” and “medical officer,” section 341, *post*, p. 447.

Recommendation by Medical Officer.—The application for the grant by the visitors of leave of absence of a private patient on trial must be accompanied by a recommendation from the medical officer: see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 21 (2), p. 533.

Effect as to Reception Order.—During the absence of the patient the reception order and certificate or certificates remain in force, see section 37 (2), *ante*, p. 197.

Effect on Irremovability.—Absence on trial from the asylum under this section will not amount to a break of residence so as to destroy the status of irremovability of a lunatic who was irremovable at the time of his admission into the asylum, if the lunatic is not at the time of his release from the asylum on leave of absence capable of exercising an independent

choice as to his place of residence : *Reg. v. Bruce*, [1892] 2 Q. B. 136 ; 40 Section 55. W. R. 686 ; 56 J. P. 567.

NOTE.

(2.) The visitors may make an allowance to a pauper lunatic absent from the asylum on trial, not exceeding the charge in the asylum, and that allowance, and no more, shall be paid for him as if he were in the asylum. [Allowance to paupers.]

Object of Allowance.—The Commissioners to the Board regard this subsection as a very useful provision, and one to be more generally made use of. It may, and often does, assist materially in the completion of the cure, by relieving the patient from anxiety for a time while he is seeking for employment ; and thus, by preventing a relapse and consequent return to the asylum, the grant of the allowance may be a real economy : 46th Rep., p. 47.

In their 68th Report, 1914, Part I., p. 4. The Commissioners say : “ We would urge that fuller use should be made of the provisions of section 55 (2) . . . which enables the visitors of an asylum to grant money allowances to patients on trial. If this practice were universally adopted many of the anxieties attending the return to ordinary life of patients in the poorer classes would be removed, and they would not be subjected to the trials and difficulties which are so often responsible for a fresh breakdown.”

(3.) The manager of any hospital or licensed house may, with such consent as hereinafter mentioned,—

(a.) send or take, under proper control, any private patient or two or more private patients to any specified place [or to travel in England] for such period as may be thought fit for the benefit of his or their health :

[Private patient in hospital or licensed house.]

The words “ or to travel in England ” were inserted in section 9 of the Lunacy Act, 1891, *post*.

(b.) permit a private patient to be absent upon trial for such period as may be thought fit.

Practice as to Removal for Health.—The Commissioners in Lunacy in their 33rd Report, at p. 133, said : “ As noticed in our 30th Report, the system of removing patients from licensed houses and hospitals to the seaside or elsewhere for a change has extended much of late years, and is a most beneficial arrangement, much to be encouraged under proper checks. Several committees of hospitals and proprietors of asylums engage furnished houses at the seaside, to which during the season their patients are brought in relays. Such a plan was never thought of in 1845 when the Act, 8 & 9 Vict. c. 100, was passed, and consequently some question has here and there been raised as to its legality. The practice, we think, should now be distinctly legalised, as it is greatly to the advantage of patients. It would not be difficult to provide against any abuse ; as, for example, by requiring notice to be given to the clerk of the peace of the county that,

Section 55. under the sanction of the Commissioners, visitors, or committee, as the case might be, two or more lunatics under certificates would, for a specified time, be brought to an unlicensed house within the county for change of air. Whereupon it might be competent to any two of the visitors of licensed houses in that county to enter and inspect at their pleasure. As it is desirable that we should always be acquainted with the movements of patients, especially private patients, we should recommend that notice should be sent to us whenever leave of absence is given on trial, or for the benefit of health, to any patient in a registered hospital or provincial licensed house."

NOTE.

Limits of Removal.—In their 30th Rep., at p. 79, the Commissioners noted that the law did not permit of removal on leave or otherwise to any place beyond England or Wales, although they would be glad, if in any amendment of the law, power were given to extend the licence so as to admit of a trip to Scotland or elsewhere in the United Kingdom without involving the lapse of certificates.

[Consent of
Commis-
sioner or
visitors.]

(4.) The consent required by this section shall be either that of a Commissioner, or in the case of a hospital that of two members of the managing committee, or in the case of a house licensed by justices that of two of the visitors. Any such consent may be renewed, and the place when required to be specified varied.

Recommendation of Medical Officer.—The application for the grant by the Commissioners or visitors of leave of absence of a private patient, either for health or on trial, must be accompanied by a recommendation of the medical officer of the institution : see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 21 (2), p. 533.

Such application should clearly state whether the leave of absence is required for the purpose of giving the patient a trial or whether it is merely proposed to provide the patient with a temporary change for the purposes of health or amusement, as the form of consent which is given by the Commissioners varies accordingly.

[Approval of
petitioner.]

(5.) Before such consent is given, the approval in writing of the person on whose petition the reception order was made, or by whom the last payment on account of the lunatic was made, shall be produced, unless the consenting persons, on cause being shown, dispense with the same.

Consent of Substitute for Petitioner.—See also section 48 (2), *ante*, p. 209, as to the consent of the substitute appointed in the place of the person on whose petition the reception order was made.

[Pauper
patient in
hospital or
licensed
house.]

(6.) A Commissioner as regards any hospital or licensed house, and two members of the managing committee of a hospital, and two of the visitors of a house licensed by [justices] may, of their own authority, permit a pauper patient to be

absent upon trial for such period as may be thought proper, and may make or order to be made an allowance to the pauper, not exceeding the charge for him in the hospital or house, which shall be payable as if he were in the hospital or house, but shall be paid over to him or for his benefit as [such Commissioner or such two visitors] may direct. Section 55.

The words in brackets were substituted for "visitors" and "the Commissioners or visitors" by section 9 (2) of the Lunacy Act, 1891, *post*, to correct obvious slips in drafting.

(7.) The medical officer of a hospital or licensed house may, of his own authority, permit any patient to be absent from the hospital or house for a period not exceeding forty-eight hours. [Absence by leave of medical officer.]

(8.) If a person allowed to be absent on trial for any period does not return at the expiration thereof, and a medical certificate certifying that his detention as a lunatic is no longer necessary is not sent to the visitors of the asylum or the manager of the hospital or house, he may at any time within fourteen days after the expiration of the period of trial be retaken as in the case of an escape. [Overstaying leave of absence.]

As to retaking, as in case of an escape, see sections 85—89 inclusive, *post*, pp. 237—240.

56 (1.) Any person having charge of a single patient may change his residence and remove the patient to any new residence of such person in England. [Change of residence of single patients.]

Effect as to Reception Order.—The original reception order and certificates will remain in force under section 37 (2), *ante*, notwithstanding the change of residence.

(2.) Seven clear days before a change of residence, the person having charge of a single patient shall give notice in writing thereof, and of the place of the new residence, to the Commissioners and to the person on whose petition the reception order was made, or by whom the last payment on account of the patient was made. [Notices to Commissioners, &c.]

Computation of Time.—"Seven clear days" are reckoned exclusively of the day on which the notice is given and of the day on which the patient is removed.

Notice of Removal.—As to sending notices after removal, see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 23, p. 534.

(3.) Any person having charge of a single patient, with the previous consent of a Commissioner, may take or send the patient, under proper control, to any specified place or places, [Absence on trial or for health.]

Section 56. for any definite time, for the benefit of his health [or permit the patient to be absent on trial for such period as may be thought fit].

The words in brackets at the end of the sub-section were added by section 10 of the Lunacy Act, 1891, 54 & 55 Vict. c. 65, *post*.

Recommendation of Medical Attendant.—The application to a Commissioner for his consent must be accompanied by a recommendation from the medical attendant of the patient: see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 21 (2), *post*, p. 533.

[Approval
of petitioner.]

(4.) Before any consent by a Commissioner is given, the approval in writing of the person on whose petition the reception order was made, or by whom the last payment on account of the patient was made, shall be produced to the Commissioner, unless, on cause being shown, he dispenses with the same.

In the 52nd Report of the Commissioners in Lunacy, p. 53, June, 1898, are set out questions put to the law officers of the Crown as the result of an inquiry consequent upon a communication from the Marquis of Salisbury with reference to the alleged removal and detention abroad of a number of British subjects in a French lunatic asylum. The following were the points raised by the Commissioners together with the Law Officer's Report:—

Questions.

1. "Is it an offence against the common law to forcibly remove to an asylum abroad, with a view to certification there, a person of unsound mind who has not been certified as a lunatic in this country ?
2. "Is it an offence against the common law to forcibly remove from this country a person of unsound mind who has been so certified ?
3. "Is it an offence against the common law to induce by misrepresentation a person of unsound mind who is not under certificates to leave this country with a view to placing such person in an asylum abroad ?
4. "Is it an offence against the common law to induce by misrepresentation a person of unsound mind who is under certificates to leave this country for the purpose of placing such person in a foreign asylum ?

Replies.

"In our opinion the first and second of the questions formulated by the Commissioners must be answered in the affirmative.

"The third and fourth questions as they are put must be answered in the negative. Such a misrepresentation could not by itself be made the subject of criminal proceedings. An indictment would, however, lie for a conspiracy by several persons to induce by misrepresentation a lunatic, whether certificated or not, to go abroad with a view to deprive him of the protection of English law and have him confined in an asylum, by taking advantage of a system of foreign law less favourable on this point to the liberty of the subject than the English law."

See also note to section 71 (2), *post*, p. 227.

Boarding-out Lunatics.

Section 57.

57. (1.) Where application is made to the visiting committee of an asylum by any relative or friend of a pauper lunatic confined therein that he may be delivered over to the custody of such relative or friend, the committee may, upon being satisfied that the application has been approved by the guardians of the union to which the lunatic is chargeable or the local authority liable for his maintenance, and, in case the proposed residence is outside the limits of such union or the area subject to such local authority, then also by a justice having jurisdiction in the place where the relative or friend resides, and that the lunatic will be properly taken care of, order the lunatic to be delivered over accordingly.

Maintenance
for pauper
lunatic taken
charge of by
relatives.

(2.) Where any such order is made, the authority liable for the maintenance of the lunatic shall pay to the person to whom the lunatic is delivered such allowance for the maintenance of the lunatic, not exceeding the expenses which would be incurred on his account if he were in the asylum, as such authority on the recommendation of the visiting committee of the asylum from which the lunatic was delivered over thinks proper.

[Payment of
maintenance.]

As to reimbursement of sums paid by County Council, from guardians who had received funds to which lunatic was entitled, see *Calne Union v. The Wilts County Council*, [1911] 1 K. B. 717.

See also section 132 (2), *post*, p. 285.

Quarterly Visits of Poor Law Medical Officer.—By section 202, *post*, it will be the duty of the district medical officer to make quarterly visits to any lunatic in his district boarded-out under this section, and to report on the case to the visiting committee of the asylum from which he is boarded-out.

Return to Asylum.—By section 63, *post*, any two visitors may at any time make an order for the removal of the lunatic back again to the asylum, if they think fit to do so.

(3.) For the purposes of section twenty-four, sub-section (2) (*f*), of the Local Government Act, 1888, a lunatic boarded-out by the authorities of any asylum shall be deemed to be a lunatic maintained in an asylum.

[Payments
by county
council.]
51 & 52 Vict.
c. 41.

This sub-section avoids the effect of a strict construction of the words in italics in the enactment cited below.

Section 24 (2) (*f*) of the Local Government Act, 1888, 51 & 52 Vict. c. 41, provides that in substitution for local grants (formerly made out of the Exchequer), the council of each county shall from time to time pay out

Section 57. of the county fund to the guardians of every poor law union wholly or partly in the county a sum equal to four shillings a week for each pauper lunatic chargeable to that union and *maintained in an asylum*, registered hospital, or licensed house, for whom the net charge upon the guardians, after deducting any amount received by them for the maintenance of such lunatic from any source other than local rates, is equal to or exceeds four shillings a week throughout the period of maintenance for which the sum is so paid. By sub-section (5) of the same section where a sum is payable under this section to the guardians, authority, or officer of a union or other area, and such union or area is situate in more administrative counties than one, a proportionate part only of the sum otherwise payable shall be paid by the council of each of such counties to the guardians, authority, or officer, and the Local Government Board shall certify the proportionate part due from the council of each such county.

NOTE.

By section 34 of the same Act, the council of a county borough is bound to make the like payments in substitution for local grants out of the borough fund.

By section 100 of that Act the expression "guardians" means guardians elected under the Poor Law Amendment Act, 1834, and the Acts amending the same, and includes guardians or any other body of persons performing under any local Act the like functions to guardians under the Poor Law Amendment Act, 1834. And the expression "poor law union" means any parish or union of parishes for which there is a separate board of guardians.

See further as to this subject, the notes to section 286 (1), *post*, p. 394.

Removal of Lunatics.

Removal of private patient by person authorised to discharge the patient.

58. A person having authority to order the discharge of a private patient from an institution for lunatics, or of any single patient, may, with the previous consent in writing of a Commissioner, by order in writing direct the removal of the patient to any institution for lunatics or to the charge of any person named in the order.

Authority to Discharge.—As to the person having authority to order the discharge of any private or single patient, see section 72, *post*, p. 227, and section 48 (2), *ante*, p. 209.

Entries and Notices.—As to the entries to be made in the Register of Patients and Register of Removals, on the removal of any patient, and the notices to be sent to the Commissioners, and in the case of lunatics so found, to the Chancery visitors, see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 23, and 31st October, 1906, Rule 6, *post*, pp. 534, 557.

Removal of lunatics by Commissioners.

59. (1.) Any two (a) Commissioners may by order direct the removal of a lunatic from an institution for lunatics to any other institution for lunatics.

(a) See Order in Council cited under section 150, *post*, p. 301.

Definitions of "Commissioners," "lunatic," and "institution for lunatics," see section 341, *post*, p. 447. Section 59.

Where application is made for removal, see Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 21, *post*, p. 533, as to necessary medical reports, etc.

NOTE.

This sub-section is a re-enactment of the first clause of section 82 of the Lunatic Asylums Act, 1853, 16 & 17 Vict. c. 97, but in the present sub-section it is not required that the order of the Commissioners should be under seal.

Removal of Pauper Lunatics.—As to the institution to which a pauper lunatic may be removed, see section 69, *post*, p. 226. And as to the expenses of removal of a pauper lunatic, see section 297, *post*, p. 410.

Entries and Notices.—As to the entries to be made, and the notices to be sent, on the removal of a patient, see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 23, and 31st October, 1906, Rule 6, *post*, pp. 534, 557.

(2.) Upon the death of a person having charge of a single patient, the Commissioners may, upon the application of the person having authority to discharge the patient, or if he does not apply within seven days after the death, upon their own motion, direct the patient to be removed to the charge of a person named in the order.

Authority to Discharge.—As to the person having authority to discharge the patient, see section 72, *post*, p. 227, and section 48 (2), *ante*, p. 209.

Notices on Reception.—As to the notices and documents to be sent to the Commissioners on the reception of a single patient, see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 8 (3), *post*, p. 528.

(3.) Any two Commissioners may at any time by order direct the removal of a lunatic from the charge of any person under whose care he is as a single patient, to the charge of any other person or to any institution for lunatics.

60. (1.) Where, upon the visitation of a workhouse by any two (a) or more Commissioners, it appears to them that a lunatic or alleged lunatic therein is not a proper person to be allowed to remain in a workhouse, they may by order direct the lunatic to be removed to an institution for lunatics, and every such order shall have the same effect as a summary reception order.

Removal of lunatic from workhouse by Commissioners.

Effect of Order.—As to the effect of a summary reception order, see sections 13 (3) and 16, *ante*, pp. 171, 174. The order must be obeyed by the same persons under the like penalties in case of disobedience. There does not appear to be any statutory provision for payment of the expenses of removal.

Institution.—As to the institution to which a pauper lunatic may be removed, see section 69, *post*, p. 226.

(a) See Order in Council cited under section 150, *post*, p. 301.

Section 60. *Entries and Notices on Reception.*—As to the entries to be made, and the notices and documents to be sent to the Commissioners, on the reception of the patient into the institution, see the Rules of the Commissioners in Lunacy, 31st October, 1906, Rule 4, and 26th June, 1895, R. 8 (3) respectively, *post*, pp. 557, 528.

NOTE.

[Appeal by guardians.]

(2.) The guardians of the union to which the workhouse belongs may appeal against an order under this section within one month from the making thereof to a Secretary of State, who shall thereupon employ a Commissioner, not being one of the Commissioners who made the order, or some other person, to make a special visitation of the workhouse and to report to him upon the matter, and the decision of the Secretary of State upon such report shall be conclusive.

Removal of lunatic in a hospital or licensed house by guardians.

61. (1.) The authority liable for the maintenance of a pauper lunatic detained in a hospital or licensed house may make an order for the removal of the lunatic [to the workhouse of the union to which the lunatic is chargeable, or if the lunatic is chargeable to a county or borough, to the workhouse of the union from which he was sent to the hospital or licensed house] and may direct the mode of removal.

The words in brackets from “to the workhouse” to “to the hospital or licensed house” were added by section 11 of the Lunacy Act, 1891, 54 & 55 Vict. c. 65, *post*, in order to make it clear that the power of removal under this section extends only to removal to the workhouse.

Lunatics becoming Paupers.—As to the removal of lunatics in a hospital or licensed house who become paupers whilst detained there, see section 19 of the Lunacy Act, 1891, *post*, p. 483.

(2.) Upon production to the manager of the hospital or house of a copy of the order he shall forthwith remove the patient or suffer him to be removed.

Entries and Notices.—As to the entries to be made, and the notices to be sent by the manager on the removal of a patient, see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 23, and 31st October, 1906, Rule 6, *post*, pp. 534, 557.

Removal from workhouse by guardians.

62. [*The guardians of the union to which a workhouse belongs may make an order for the removal of any lunatic detained therein.*]

This section has been repealed by section 29 and Schedule of the Lunacy Act, 1891, *post*, because the existence of this power of removal was manifestly inconsistent with the provisions of section 24 (3), *ante*, for permanent detention of a lunatic in a workhouse under the order of a justice.

63. Where the visiting committee of an asylum has made an order for a pauper lunatic in the asylum to be delivered to the custody of a relative or friend, any two members of the committee may at any time, if they think fit, order the lunatic to be removed to the asylum. Section 63.

Removal
of lunatic
boarded-out
into asylum.

Boarding-out Lunatics.—As to boarding-out pauper lunatics with relatives or friends, see section 57, *ante*, p. 219.

64. Any two visitors of an asylum may order a pauper lunatic chargeable to any union within any county or borough to which the asylum wholly or in part belongs, or to such county or to any county for the reception of the pauper lunatics whereof into that asylum there is a subsisting contract, to be removed to that asylum from any other institution for lunatics in which he may be detained. Removal
of pauper
into county
asylum.

As to the restriction upon this power of making orders with reference to the health of the patient, see section 67, *post*, p. 225.

Entries and Notices.—As to the entries to be made, and the notices to be sent, on the removal of a pauper lunatic under this section, see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 23, and 31st October, 1906, Rule 6, *post*, pp. 534, 557.

The following memoranda show clearly the mode in which this and the following section are intended to operate:—

MEMORANDUM OF THE COMMISSIONERS IN LUNACY.

Lunacy Act, ss. 64, 65, and 288 and 289.

In consequence of the recent occurrence of many instances in which Orders for the removal of pauper lunatics from one Asylum to another have necessarily been held to be irregular and inoperative, the Commissioners in Lunacy think it advisable to call attention to the difference in the provisions of Sections 64 and 65 of the above Act, which deal with such removals.

The Orders in question purported to be made under section 65 by two Visitors of the Asylum *from which* the lunatic was to be removed, and to be based on the fact that the lunatic was “chargeable” to a Union entitled to send pauper lunatics to the Asylum *to which* he was to be removed. But the previous consent of two Commissioners, to the removal, was not obtained, nor did the receiving Asylum come within any exception mentioned in the section. The section requires (Sub-section 2 (a)), that, to render the Order effectual *without* the previous consent of two Commissioners, the lunatic must “have been *adjudged* to be settled,” and the mere admission or acceptance of chargeability is not sufficient, though it is so in the case of Orders under Section 64. The words “adjudged to be settled” refer to formal adjudication under Sections 288 and 289 of the Act.

Hence in case of removal where no “adjudication” of settlement has been made, and the Asylum to which the lunatic is to be removed is not

Section 64. otherwise within the exceptions of Section 65, either the Order should be made under Section 64 by two Visitors of the receiving Asylum, or, if made under Section 65, the consent of two Commissioners, to the removal, should be sought previously to actual removal, and unless this consent is given the Order will be inoperative, and the patient, if removed under it, will have to be recertified and a fresh Reception Order obtained. The former course, namely, an Order under Section 64, would appear to be the simpler.

NOTE.

Lunacy Commission,
66, Victoria Street,
London, S.W.
August 31st, 1900.

MEMORANDUM OF THE COMMISSIONERS IN LUNACY.

Lunacy Act, 1890, ss. 64, 65, 286 (1), 288 and 289.

Since the issue by the Commissioners in Lunacy of their Memorandum of the 31st of August, 1900, on the subject of transfers of patients from one Asylum to another under ss. 64 and 65 of the Lunacy Act, 1890, the question has from time to time arisen whether, in a case where a Union within the County or Borough to which the receiving Asylum belongs has accepted, without adjudication under ss. 288 and 289, the chargeability of a patient not *primâ facie* chargeable to such Union under s. 286 (1), two Visitors of the receiving Asylum may make an order for the removal thither of such patient under s. 64.

The Commissioners think that, in view of the terms of s. 286 (1), the validity of orders so made is open to grave doubt, and that in future such cases should be dealt with by orders made under s. 65 by two Visitors of the sending-out Asylum with the previous consent in writing of two Commissioners.

Lunacy Commission,
66, Victoria Street,
London, S.W.
June 1st, 1908.

Removal of
pauper from
asylum.

65. (1.) Any two visitors of an asylum may order a pauper lunatic in the asylum to be removed to some other institution for lunatics.

Entries and Notices.—As to entries to be made, and notices to be sent on the removal of a pauper lunatic under this section, see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 23, and 31st October, 1906, Rule 6, *post*, pp. 534, 557.

(2.) A lunatic shall not be removed under this section without the consent in writing of two (a) Commissioners except to—

(a.) An asylum within or belonging wholly or in part to the county within which the asylum from which the

(a) See Order in Council, 9th March, 1914, cited under section 150, *post*, p. 301.

lunatic is removed is situate, or to the county in some parish of which the lunatic may have been adjudged to be settled ; or

Section 65.
—

(b.) A hospital or licensed house within any such county as aforesaid ; or

(c.) An institution for lunatics into which the lunatic can be received under a subsisting contract.

See Memoranda of Commissioners in Lunacy under section 64, *ante*, p. 223.

66. The visitors making an order for the removal of a pauper lunatic may by the order require any relieving officer, or other officer of the union, county, or borough to which the lunatic is chargeable, or may authorise any other person to execute the same.

Directions as to execution of order for removal.

67. A pauper lunatic shall not be removed under any order for removal made by two visitors without a medical certificate signed by the medical officer of the institution for lunatics from which the patient is to be removed, certifying that he is in a fit condition of bodily health to be removed.

Restriction upon removal of paupers by two visitors.

68. Where a union is in more than one county, and the workhouse of the union is in one county, and the place from which a lunatic was sent to the workhouse is in another county, an order may be made by a justice for the county in which the workhouse is, or a justice for the county from which the lunatic was sent, for the removal of the lunatic either to the asylum of the county in which the workhouse is or to the asylum of the county from which the lunatic was sent, and such latter order may be made notwithstanding that there may be an asylum of the county in which the workhouse is, and there may not be a deficiency of room or any other special circumstances by reason whereof the lunatic cannot conveniently be taken to that asylum.

Removal of lunatic from workhouse by a justice.

As to the removal of lunatics from a workhouse to an asylum under a justice's order, see section 24 (6), *ante*, p. 185.

Effect of Section.—But for this section the order would have to be made by a justice of the county in which the workhouse is, and he would have been bound, under section 27, *ante*, to send the lunatic in the first instance to the asylum of that county.

Endorsement by Visitor.—It seems, however, that an order sending the lunatic to the asylum of the county from which the lunatic was sent to the workhouse must, under section 27 (3), be endorsed by a visitor of that asylum.

Section 68. *Union wholly in one County, Workhouse in another.*—The foregoing section does not cover the case of a union being wholly in one county, and the workhouse of the union in another. Such a case is provided for by section 6 of the Lunacy Act, 1891, *post*.

NOTE.

Restriction as to institution to which pauper may be removed.

Removal orders to be in duplicate.

69. Except under the provisions of the preceding section a pauper lunatic shall not be removed under an order of removal to any institution for lunatics into which he could not have been received under a reception order.

70. (1.) Every order for the removal of a lunatic from an institution for lunatics or from the charge of any person and the consent of the Commissioners thereto, where required, shall be in duplicate. One duplicate shall be delivered to the manager of the institution for lunatics or the person from whose care the lunatic is removed, and the other to the manager of the institution for lunatics, or the person into whose care the lunatic is removed.

As to the consent of the Commissioners, see sections 58 and 65 (2), *ante*, pp. 220, 224, and as to number of Commissioners, see Order in Council cited under section 150, *post*, p. 301.

[Authority of removal order.]

(2.) Every such order, with such consent as aforesaid where required, shall be sufficient authority for the removal and reception of the lunatic, in accordance with the order.

[Copies of reception order and certificates to accompany removal.]

(3.) The manager of the institution from which, or the person from whose care the lunatic is removed under any such order shall deliver, free of expense, a copy of the reception order and documents accompanying the same to the person executing the order for removal, to be by him delivered to the manager of the institution into which or the person into whose care the lunatic is removed.

[Copies to be certified.]

(4.) Every such copy shall be certified under the hand of the person whose duty it is to deliver the same.

Removal of alien to his native country.

71. (1.) Where an alien is detained as a lunatic, and his family or friends desire that he should be removed to the country of which he is a subject, the Commissioners, upon application by any member of the family, or by a friend of the alien, may inquire into the circumstances of the case and report thereon to a Secretary of State.

Criminal Lunatics.—The section is, of course, not applicable to criminal lunatics. As to the removal of criminal lunatics to or from the colonies,

see section 10 of the Colonial Prisoners' Removal Act, 1884, 47 & 48 Vict. **Section 71.**
c. 31, *post*, p. 715.

NOTE.

(2.) A Secretary of State, if satisfied by such report that the person to whom the report relates is an alien and a lunatic, and that his removal is likely to be for his benefit, and that proper arrangements have been made for such removal and for his subsequent care and treatment, may, by warrant, direct the alien to be delivered to the person named in the warrant for the purpose of removal to the country of which he is a subject, and every such warrant shall be obeyed by the person or authority under whose charge the lunatic is.

Lunatic so found.—Even before the passing of the Lunacy Act, 1889, the Lords Justices having jurisdiction in lunacy would, where an alien had been found lunatic in his own country and also here, direct him to be given over to the charge of the person appointed for that purpose by the foreign court: *Re Sottomaior* (1873), L. R. 9 Ch. 677.

Removal of British Subject to Asylum Abroad.—The removal of a British subject abroad, without his consent, even though he is suffering under an attack of mania, and is taken for the purpose of placing him in an asylum abroad, is an indictable offence. See the opinion of the law officers in *Mary Ryan's Case*, 19th Rep., p. 43. See also note to section 56 (4), *ante*, p. 218.

(3.) A warrant under this section shall be sufficient authority for the master of any vessel to receive and detain the lunatic on board the vessel, and to convey him to his destination.

The master of the vessel, it will be observed, is not compellable to receive the lunatic in pursuance of the warrant.

Discharge of Lunatics.

72. (1.) A private patient detained in an institution for lunatics, or under care as a single patient, shall be discharged if the person on whose petition the reception order was made by writing under his hand so directs.

Discharge
of private
patient.

Discharge by Substitute.—As to discharge by the substitute appointed for the person on whose petition the reception order was made, see section 48 (2), *ante*, p. 209.

Letter of Discharge.—It is always advisable to have the order for discharge in writing; but a letter merely begging the manager of the institution, or the person having the charge of the patient, to discharge him as soon as he may think it advisable, does not amount to a peremptory order of discharge, so as to prevent such manager or person in his discretion from lawfully continuing to detain the patient: *Lowe v. Fox* (1887), 12 App. Cas. 206; 56 L. J. Q. B. 480; 56 L. T. (N. S.) 406; 51 J. P. 468.

Section 72. *Entries and Notices.*—As to the entries to be made and notices to be sent on the discharge of a patient, see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 23, and 31st October, 1906, Rule 6, *post*, pp. 534, 557.

NOTE.

[Discharge
in case of
disability of
petitioner.]

(2.) If that person is dead, or incapable by reason of insanity, absence from England, or otherwise, of signing an order for discharge, or, if a patient having been originally classified as a pauper is afterwards classified as a private patient, the person who made the last payment on account of the patient, or the husband or wife, or if there is no husband or wife, or the husband or wife is incapable as aforesaid, the father, or if there is no father, or he is incapable as aforesaid, the mother of the patient, or, if there is no mother, or she is incapable, then any one of the nearest of kin of the patient, may give the direction for his discharge.

[Discharge
by Commis-
sioners.]

(3.) If there is no person qualified to direct the discharge of a patient under this section, or no person able or willing to act, the Commissioners may order his discharge.

As to order of discharge by the Commissioners, see section 76, *post*, p. 231.

As to the discharge of a patient who has recovered, see section 83, *post*, p. 234.

Entries and Notices.—As to entries to be made and notices to be sent on the discharge of a patient, see notes to sub-section (1) of this section.

Discharge
of pauper
in hospital
or house.

73. The authority liable for the maintenance of a pauper lunatic detained in a hospital or licensed house may make an order for the discharge of the lunatic, and may direct the mode of discharge, and upon production to the manager of the hospital or house of a copy of the order he shall forthwith discharge the patient, or suffer him to be discharged.

Entries and Notices.—As to entries to be made and notices to be sent on the discharge of the patient, see the Rules of Commissioners in Lunacy, 26th June, 1895, Rule 23, and 31st October, 1906, Rule 6, *post*, pp. 534, 557.

Restriction on
discharge.

74. A patient shall not be discharged under the provisions of the two preceding sections if the medical officer of the institution, or, in the case of a single patient, his medical attendant, certifies in writing that the patient is dangerous and unfit to be at large, together with the grounds on which the certificate is founded, unless two of the visitors of the asylum, or the Commissioners visiting the hospital or house, or the visitors of the house, or in the case of a single patient, one of the Commissioners, after the certificate has been produced, consent in writing to the patient's discharge.

Practice as to Dangerous and Indecent Patients.—The Select Committee of 1878 (Report, p. v.) said: "If it is important that every security should be taken against the risk of a sane person being consigned to an asylum, it is scarcely less so that the treatment of insane patients while under detention should cease as soon as they are no longer dangerous to themselves or to others, and are not likely to be benefited by further detention. That there will be a diversity of opinion upon the question of the proper time at which a patient may be discharged without danger of relapse must be expected; and, as before stated, there are cases in which he may safely be consigned to careful friends when it would be highly dangerous to expose him without preparation to uncontrolled freedom of action. Doubtless this reluctance to liberate a recovered patient may be carried too far, and the effect upon the patient himself may be prejudicial. The Committee believe that the surest mode of guarding against unduly prolonged detention consists in careful and frequent visitation of all places in which any lunatic is confined, with full power placed in the hands of the Commissioners to order discharge, and in the more general adoption of probationary release. They think that the difficulty attending in certain cases, especially in Scotland, the discharge of patients who cannot be certified as entirely sane, but still are no longer dangerous to themselves or to others and not likely to be benefited by further detention, may be obviated by such means."

Section 74.

NOTE.

With reference to this passage in the Report, the Commissioners in Lunacy in their 33rd Report, at p. 136, said: "The Committee have here omitted an important qualification, viz., that the patient though neither dangerous to himself or to others, nor likely to benefit by further treatment, should not be of such habits as would offend against public decency or morality, if allowed to be at large. If remitted to the care of friends, they would of course be responsible for his conduct, and even where detention in an asylum may be no longer proper, detention under certificates in a private house may still be necessary. It must always be remembered that the Committee discovered no cases of 'undue detention.' The Committee's remark as to probationary discharge applies (to judge by the context) rather to Scotland than to England, where discharge upon trial is an every-day occurrence."

75. Two of the Commissioners, one of whom shall be a medical, and the other a legal Commissioner, may visit a patient detained in any hospital or licensed house, or as a single patient, and may, within seven days after their visit, if the patient appears to them to be detained without sufficient cause, make an order for his discharge.

Discharge by Commissioners of patients in hospital or licensed house and of single patients.

Notice of Discharge.—As to orders of discharge by the Commissioners, see section 76, *post*, p. 231.

Entries and Notices.—As to the entries to be made and the notices to be given on the discharge of a patient, see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 23, and 31st, Oct., 1906, Rule 6, *post*, pp. 534, 557.

Practice.—The cases in which the interference of the Commissioners by

Section 75. actual order has been required to secure a discharge have been extremely rare. The reason for the infrequency of such orders is, that an expression of opinion, emanating either from the medical superintendent or from the Commissioners on their visits, is almost always sufficient to secure the discharge of a patient whose further detention seems unnecessary, either on account of his apparent recovery, or where asylum treatment appears not to be needed, although some unsoundness of mind may exist. The patient's friends are communicated with, and little difficulty generally exists in inducing them to discharge the patient absolutely, or to apply for his removal on trial for a short time, at the expiration of which his full discharge ensues as a matter of course, supposing no relapse to intervene: 34th Rep., p. 110; 41st Rep., p. 89.

NOTE.

Discharge on Habeas Corpus.—Before the regulation of private madhouses by Act of Parliament, the only legal method by which persons detained therein without sufficient cause could obtain their release was by *habeas corpus*, but even then the Court of King's Bench, before making an order of discharge, would order a previous inspection of the patient by proper persons, physicians and relations, and then proceed accordingly: *Rex v. Turlington* (1761), 2 Burr. 1115. And when it appeared that the party was actually insane and that the relatives were applying for a commission of lunacy, the court would enlarge the time for making the return so as to allow of the commission of lunacy being issued in the meantime: *Rex v. Clarke* (1762), 3 Burr. 1362. The position of the keeper of a private madhouse at this time was this, that although there was no authority by the law for private madhouses, keepers might excuse themselves by a plea of necessity where they acted for the best with all due diligence and due medical advice: *Rex v. Coate* (1772), Lofft, 73, 78; *Brookshaw v. Hopkins* (1773), Lofft, 235, 240.

The first Act for regulating madhouses, 14 Geo. 3, c. 49, was passed in 1774, and did not contain any special provision on this subject. But it recognised the previous state of the law as continuing unaltered. For by section 25, after reciting that it was not intended by that Act to give the keepers of any house licensed under that Act, or any other person concerned in confining any of His Majesty's subjects therein, any new justification for their acts, it was declared and enacted that in all proceedings under a writ of *habeas corpus*, and in all indictments and actions for confining or ill-treating any such subject in any such house, the parties complained of should be obliged to justify their proceedings according to the course of the common law, as if this Act had not been made. This statute was repealed and superseded in 1828 by the 9 Geo. 4, c. 41, and although that Act also contained in section 37 a power for the Commissioners to set at liberty any person detained in a licensed house without sufficient cause, the provisions of 14 Geo. 3, c. 49, s. 25, were re-enacted, showing thereby that the remedy by *habeas corpus* was not superseded by the special power given to the Commissioners. The 2 & 3 Will. 4, c. 107, passed in 1832, repealing and superseding the 9 Geo. 4, c. 41, contained similar provisions.

In the Lunacy Act, 1845, 8 & 9 Vict. c. 100, although the provision giving power to the Commissioners to discharge persons improperly detained was again re-enacted, the provision requiring proprietors and others

to justify their proceedings at common law was not re-enacted; but, **Section 75.** instead thereof, it was provided that in every writ, indictment, action, or other proceeding brought against any proprietor or superintendent of a licensed house or registered hospital, or person authorised to take charge of a lunatic upon an order and certificates, or against any of their servants or assistants for taking, confining, &c., any person as a lunatic, the party complained of might plead the order and certificates in his defence, and the order and certificates should be a justification.

NOTE.

This enactment still left the remedy by *habeas corpus* available in all cases, except where the party was detained under a proper order and certificates. And it was held shortly afterwards that even where the order and certificates were not such as to fulfil the requirements of the statute, the court would not order the discharge of the party if it appeared by the return to the writ that the party was of unsound mind and would be dangerous to himself or to others if set at large: *Re Shuttleworth* (1846), 9 Q. B. 651; 16 L. J. M. C. 18; 11 Jur. 41; 2 New Sess. 470. The law has not since been altered in principle by the subsequent statutes including the present Act.

The practice in proceedings by *habeas corpus* at the present day may be summarised as follows:—The writ is issued at common law in vacation as well as during the sittings: *Canadian Prisoners' Case* (1839), 3 St. Tr. (N.S.) 963; 9 A. & E. 731; 1 P. & D. 516. There must be an affidavit in support of the application for the writ sworn by the alleged lunatic himself, or else an affidavit from some other person to the effect that the alleged lunatic is prevented from making one, and that the application is authorised by him: *Canadian Prisoners' Case* (1839), 3 St. Tr. (N.S.) 963, 1031; 5 M. & W. 32; *Ex parte Child* (1854), 15 C. B. 238. Formerly, the court had no power to award costs: *Re Shuttleworth* (1846), 9 Q. B. 651; 16 L. J. M. C. 18; 11 Jur. 41; 2 New Sess. Cas. 470. But, since the Judicature Act, 1890, 53 & 54 Vict. c. 44, it has been held that the court have power under section 5 of that Act to order payment of costs by the unsuccessful applicant: *Reg. v. Jones*, W. N. (1894), p. 96; 29 L. J. N. C. 342.

Upon an apparently *bonâ fide* application to the asylum authorities for the cause of detention made by a person entitled to apply for a writ of *habeas corpus*, the order and certificates upon which the detention is justified ought to be shown to the applicant: *Re Dell* (1891), 35 Sol. Journ. 783.

76. (1.) The Commissioners when they have made any order of discharge shall forthwith serve the same upon the manager of the institution for lunatics where the patient is detained, or upon the person having charge of the patient as a single patient, and shall give notice of such order,—

(a.) In the case of a private patient, to the person on whose petition the reception order was made or who made the last payment on account of the patient.

(b.) In the case of a pauper, to the authority liable for his maintenance.

Notice of
order of
discharge.

Section 76. *Discharge by Commissioners.*—As to orders of discharge by the Commissioners, see section 34 (2), *ante* ; section 38 (6), *ante* ; section 39 (9), *ante* ; section 49, *ante* ; section 72 (3), *ante* ; and section 75, *ante*, pp. 194, 199, 202, 210, 228, 229.

NOTE.

(2.) Any person who has been duly served with any such order of discharge and detains a patient after the date of discharge appointed thereby shall be guilty of a misdemeanor.

Visitors may discharge patients in asylums.

77. (1.) Any three visitors of an asylum may order the discharge of any person detained therein whether he is recovered or not.

Entries and Notices.—As to the entries to be made and the notices to be sent on the discharge of a patient, see the Rules of the Commissioners in Lunacy, June 26, 1895, Rule 23, and Oct. 31, 1906, Rule 6, *post*, pp. 534, 557.

(2.) Any two such visitors, with the advice in writing of the medical officer, may order the discharge of any person detained in the asylum.

As to the entries to be made and the notices to be sent on the discharge of a patient, and as to expenses in case of pauper lunatics, see notes to preceding sub-section.

Discharge by visitors of lunatics in licensed houses.

78. (1.) If after two visits by two visitors to a house licensed by justices, it appears to the visitors that any patient is detained without sufficient cause, the visitors may make such order as they think fit for his discharge.

Entries and Notices.—As to the entries to be made and the notices to be sent on the discharge of a patient, see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 23, and 31st October, 1906, Rule 6, *post*, pp. 534, 557.

[One visitor to be medical.]
[Seven days' interval.]

(2.) In the case of visits under this section, one of the visitors shall be a medical practitioner.

(3.) The two visits shall be made by the same visitors at an interval of not less than seven days.

[Seven days' notice of second visit.]

(4.) Seven days' notice of the second visit shall be given either by post or by an entry in the patients' book to the manager of the house, who shall forthwith send by post a copy of the notice, in the case of a private patient to the person on whose petition the reception order was made, or by whom the last payment on account of the lunatic was made, and in the case of a pauper to the authority liable for his maintenance, and also to the clerk of the visitors of the house.

Entries.—As to entries in the patients' book, see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 24, p. 534.

Penalty for default in sending notices, see section 320, *post*, p. 431.

(5.) The visitors before making an order under this section shall examine the medical officer of the house as to his opinion respecting the fitness of the patient to be discharged, if he tenders himself for examination. **Section 78.** [Examination of medical officer.]

(6.) If after such examination an order for discharge is made, and the medical officer furnishes to the visitors a statement of his reasons against the discharge, they shall forthwith send the statement to the clerk of the visitors. [Medical officer's objection.]

(7.) This section shall not apply to a lunatic so found by inquisition. [Saving for Chancery lunatics.]

(8.) Every order under this section shall be signed by the visitors by whom it is made. [Signature of discharge.]

79. When application is made to the visiting committee of an asylum by a relative or friend of a pauper lunatic confined therein, requiring that he may be delivered over to the custody and care of such relative or friend, any two of the visitors may, if they think fit, discharge the lunatic upon the undertaking of the relative or friend, to their satisfaction, that the lunatic shall be no longer chargeable to any union, county, or borough, and shall be properly taken care of and prevented from doing injury to himself or others. [Discharge of pauper on application of relative or friend.]

Entries and Notices.—As to the entries to be made and the notices to be sent on the discharge of a patient, see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 23, and 31st October, 1906, Rule 6, *post*, pp. 534, 557.

80. (1.) When the visitors of an asylum order a pauper lunatic confined therein to be discharged, except on the application of a relative or friend, they may, when they think fit, send a notice in writing, signed by the clerk of the asylum, by post or otherwise, of their intention to discharge the lunatic to a relieving officer of the union to which the lunatic is chargeable, or to the clerk of the local authority liable for his maintenance. [Visiting committee may send notice of intention to discharge pauper lunatic to relieving officer or clerk of local authority.]

This sub-section provides for cases in which the pauper may have been adjudged chargeable to the borough or county in which he was found (see section 290, *post*, p. 400), in order to meet the difficulty pointed out in the case of *Liverpool Overseers v. Lancaster Lunatic Asylum* (1880), 5 Ex. D. 215; 42 L. T. (N.S.) 591; 28 W. R. 600; 44 J. P. 397.

(2.) Upon receipt of such notice, the relieving officer or clerk shall cause the lunatic upon his discharge to be forthwith removed to the workhouse of the union to which the lunatic is chargeable, or, if the lunatic is chargeable to a county or

Section 80. borough, to the workhouse of the union from which he was sent to the asylum.

Discharge from workhouse by guardians.

Copies of reception order and other documents to be furnished.

81. The guardians of the union to which a workhouse belongs may make an order for the discharge of any lunatic detained therein.

82. The Secretary to the Commissioners shall, upon the discharge of a person who considers himself to have been unjustly confined as a lunatic, furnish to him, upon his request, free of expense, a copy of the reception order and certificate or certificates upon which he was confined, and if the order was made upon petition, also of the petition and statement of particulars upon which the reception order was made.

The Select Committee of 1878, in their Report, p. vii., recommended that every person discharged from confinement in a lunatic asylum should, with the consent of the Commissioners, have access to all documents connected with his detention therein. With reference to this the Commissioners in Lunacy, in their 33rd Annual Report, at p. 138, said: "The Committee quote no evidence in support of their suggestion that every person discharged from confinement should have access, with our consent, to all documents connected with his detention. If this were adopted, we fear it would seriously check the free and unrestrained communication, both to us and to the medical superintendents and others, of information regarding cases which at present, as is well known, is treated as strictly confidential."

Recovery of Patient.

Notice to be given on recovery of a patient.

83. (1.) The manager of every hospital and licensed house, and a person having charge of a single patient, shall forthwith, upon the recovery of a patient, send notice thereof in the case of a patient not a pauper to the person on whose petition the reception order was made, or by whom the last payment on account of the patient was made, and in the case of a pauper to the guardians of his union, or if a local authority is liable for his maintenance to the clerk of the local authority.

(2.) The notice shall state that unless the patient is removed within seven days from the date of the notice he will be discharged.

(3.) In case the patient is not removed within seven days from the date of the notice he shall be forthwith discharged.

There does not appear to be any legal method of compelling either the petitioner or the person who made the last payment for maintenance to come to the Institution to fetch the patient away, even though they may have had notice of his recovery and of the intention of the authorities

to discharge him. In cases, therefore, where there is no friend willing to come forward to take charge of a patient upon his discharge on recovery, it is advisable that the Medical Superintendent of the Institution should communicate the circumstances to the Board of Control before the expiration of the seven days. Section 83.

NOTE.

Commissioners' Letter as to Discharge.—Circumstances having from time to time come under the notice of the Commissioners, inducing them to believe that the fact of discharge from legal detention as an insane patient was not always communicated by the friends to the person discharged, even although the case might be entered and reported as a "recovery," chiefly in cases where the patient has been in single charge, the Commissioners started, in 1875, a general practice of addressing to every person discharged as "recovered" from care as a private patient, a letter acquainting him with the fact of his discharge, and requesting a written acknowledgment, 29th Report, p. 60, Appendix (O.).

Inquiry into Cause of Death.

84. Every coroner shall upon receiving notice of the death of a lunatic within his district, if he considers that any reasonable suspicion attends the cause and circumstances of the death, summon a jury to inquire into the same. Coroner to inquire into death, if necessary.

Inquests on Lunatics.—"Reasonable suspicion attending the cause and circumstances of the death" means reasonable cause to suspect that the lunatic has died either a violent or unnatural death, or a sudden death of which the cause is unknown.

"It is advisable that in all cases of suicide or alleged suicide, or death by violence or accident, of an insane patient in an asylum, hospital or licensed house, or under single care, that an inquest should be held, and that the body should not be buried or removed without the written authority of the coroner." 22nd Report, p. 75.

Inquests generally.—In all cases where a coroner is informed that the dead body of a person is lying within his jurisdiction, and there is reasonable cause to suspect that such person has died either a violent or unnatural death, or has died a sudden death of which the cause is unknown, or that such person has died in prison, or in such place, or under such circumstances as to require an inquest in pursuance of any Act, the coroner is bound under section 3 of the Coroners Act, 1887, 50 & 51 Vict. c. 71, to hold an inquest whether the cause of death arises within his jurisdiction or not.

Statement and Notices.—As to the statement and notices to be made and sent on the death of a patient, see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 27, and 31st October, 1906, Rule 6, as amended by Rule 4th December, 1912, substituting a new form of notice, *post*, p. 562.

Registration of Death.—By section 16 of the Registration Act, 37 & 38 Vict. c. 88, as amended by section 45 of the Coroners Act, 50 & 51 Vict. c. 71, where an inquest is held on any dead body, it is the duty of the coroner to give information to the registrar, and "no person shall with respect to

Section 84. such dead body or death be liable to attend upon a requisition of a registrar, or be subject to any penalty for failing to give information in pursuance of any other provision of this Act.”

NOTE.

Burial.—As to the burial of lunatics dying in an asylum, see sections 258, 259, *post*, pp. 369, 370.

With reference to the burial of lunatics, upon whose bodies a coroner's inquest may be held, it is provided by section 18 (6) of the Coroners Act, 1887, 50 & 51 Vict. c. 71, that a coroner, upon holding an inquest upon any body may, if he thinks fit, after view of the body, by order under his hand authorise the body to be buried before verdict and before registry of the death, and shall deliver such order to the relative or other person to whom the same is required by the Registration Acts to be delivered; but, except upon holding an inquest, no order, warrant, or other document for the burial of a body shall be given by the coroner.

By section 17 of the Registration Act, 1874, 37 & 38 Vict. c. 88, the person to whom the burial order is to be delivered is “the relative of the deceased or other person who causes the body to be buried, or the undertaker or other person having the charge of the funeral, and every such order of the coroner shall be delivered (together with the certificate of the registrar of births and deaths) to the person who buries or performs any funeral or religious service for the burial of the body of the deceased.” But by section 11 of the Burial Act, 1880, 43 & 44 Vict. c. 41, as explained by the Burial and Registration Acts (Doubts Removal) Act, 1881, 44 Vict. c. 2, where the burial is not according to the rites of the Church of England, the burial order shall be delivered to the relative, friend, or legal representative of the deceased having charge of, or being responsible for the burial, instead of being delivered to the person who buries or performs any funeral or religious service for the burial of the body of the deceased.

Fees of Medical Witnesses.—As regards fees to medical witnesses for attending an inquest to give evidence, without a *post-mortem* examination, or for making a *post-mortem*, and attending to give evidence thereon, section 22 of the Coroners Act, 1887, 50 & 51 Vict. c. 71, after providing for the payment of such fees in other cases, specially enacts that where an inquest is held on the body of a person who has died in a county or other lunatic asylum, or in a public hospital, infirmary, or other medical institution, or in a building or place belonging thereto, or used for the reception of the patients thereof, whether the same be supported by endowments or by voluntary subscriptions, the medical officer whose duty it may have been to attend the deceased person as a medical officer of such institution as aforesaid, shall not be entitled to such fee or remuneration.

Post-mortem Examinations.—It may also here be noted with regard to *post-mortem* examinations, independently of inquests, that the Commissioners in Lunacy stated in their 24th Report at p. 31, that “whether as a means of discovering injuries which patients may have received, and, by the known certainty of detection, tending to check acts of violence on the part of attendants; or with the all-important view of advancing the knowledge of the pathology and treatment of the various forms of insanity; we think that the practice of making *post-mortem* examinations should, as far as possible, be everywhere the rule (in institutions for lunatics),

and not, as in many instances, the exception. It ought also, in our opinion, to be applicable, under the same conditions of consent on the part of relatives, to all classes of patients. We further think that it would not be either desirable or necessary by legislative interference, to authorise medical officers of asylums to examine, without such consent, the bodies of the patients dying in their several establishments. It is our opinion that such examinations should not be made, either contrary to the wishes of the relatives of the patients, or without giving them the opportunity of objecting thereto." To the same effect are passages in the 25th Report, p. 38; 28th Report, p. 25; 32nd Report, p. 61; 35th Report, p. 83; 36th Report, p. 90. The notices to the relatives should state that the *post-mortem* examination will be held, unless objected to, at a specified time on a specified date, giving ample time for objections to be sent by post so as to reach the institution before the *post-mortem* examination is held. It is further advisable that when a patient is known to have sustained serious injuries during life, an independent medical man, with special pathological experience, such as the surgeon of a general hospital, should be called in to make the *post-mortem* examination. See 45th Report, App. (C.), p. 173.

Section 84.
NOTE.

Escape and Recapture.

85. If any person detained as a lunatic under this Act escapes, he may, without a fresh order and certificate or certificates, be retaken at any time within fourteen days after his escape by the manager of the institution for lunatics or the master of the workhouse in which he was detained, or any officer or servant thereof respectively, or by the person in whose charge he was as a single patient, or by any one authorised in writing by such manager, master, or person.

Overstaying leave of Absence.—Where a patient allowed to be absent on trial or for health does not return on the expiration of his leave, or sends a medical certificate that his further detention is unnecessary, he may, under section 55 (8), *ante*, be retaken at any time within fourteen days, as in the case of an escape.

Cf. Mental Deficiency Act, 1913, section 42, *post*, which specifies no time limit for the recapture of a defective. (See also *Law Quarterly Review*, April, 1914, p. 204.)

Penalties.—Penalties on managers, &c., for permitting an escape, section 323, *post*, p. 434.

Notices.—As to the notices to be sent on the escape or recapture of a patient, see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 23, *post*, p. 534.

Escape of Sane Patient.—A retaking may be justified under an order and certificate in proper form, although the person named therein is not a lunatic: *Norris v. Seed* (1849), 3 Exch. 782; 18 L. J. Ex. 300; 13 Jur. 830.

Section 86. **86.** (1.) If any person detained as a lunatic under lawful authority in England escapes into Scotland or Ireland, notice of the escape shall as soon as practicable be given to the Commissioners, who may, by writing under their seal, authorise an application to be made by such person as they think fit to any justice having jurisdiction in the place where the lunatic was so detained for a warrant authorising such person to retake the lunatic and bring him back to such place.

—
Escape from
England into
Scotland or
Ireland.

(2.) Such warrant when granted, shall in Scotland or Ireland as well as in England be sufficient *primâ facie* evidence that the person stated therein to have escaped was so detained as a lunatic under lawful authority as aforesaid, and of the fact of his escape, and shall be sufficient authority for any sheriff in Scotland, or for any justice in Ireland, to countersign the same ; and any such warrant so countersigned may be executed in Scotland, or Ireland, as the case may be, by retaking such lunatic and bringing him from thence, to the intent that he may be restored to the custody from which he escaped.

Time for Recapture.—The limit of time within which the warrant must be executed is fixed by section 89, *post*, p. 240. Under that section the lunatic must be retaken within fourteen days after his escape: see section 85, *ante*, and notes, p. 237.

Notices.—As to the notices to be sent on the recapture, see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 23, *post*, p. 534.

Escape from
Scotland into
England or
Ireland.

87. (1.) If any person detained as a lunatic under lawful authority in Scotland escapes into England or Ireland, notice of the escape shall as soon as practicable be given to the General Board of Commissioners in Lunacy for Scotland (*a*), who may by writing under the hand of one of such Commissioners, authorise an application to be made by such person as they think fit to any sheriff having jurisdiction in the place where the lunatic was so detained for a warrant authorising such person to retake the lunatic and bring him back to such place.

(2.) Such warrant, when granted, shall in England and Ireland as well as in Scotland be sufficient *primâ facie* evidence that the person stated therein to have escaped was so detained as a lunatic under lawful authority as aforesaid, and of the fact

(*a*) Now designated the General Board of Control for Scotland. Section 19 (1) of the Mental Deficiency and Lunacy (Scotland) Act, 1913, 3 & 4 Geo. 5, Ch. 38.

of his escape, and shall be sufficient authority for any justice in England or Ireland to countersign the same; and any such warrant so countersigned may be executed in England or Ireland, as the case may be, by retaking such lunatic and bringing him from thence, to the intent that he may be restored to the custody from which he escaped. Section 87.

Time for Recapture.—The limit of time within which the warrant must be executed is fixed by section 89, *post*, p. 240. By the law of Scotland a lunatic, if he remains there after his escape, may be retaken within twenty-eight days after his escape. See section 6 of the Lunacy (Scotland) Act, 1866, 29 & 30 Vict. c. 51.

(3.) For the purposes of this section a writing purporting to be signed by one of the Commissioners in Lunacy for Scotland shall be deemed to have been signed by him until the contrary is proved.

Now the Commissioners of the General Board of Control for Scotland. See footnote to sub-section 1 of this section.

88. (1.) If any person detained as a lunatic under lawful authority in Ireland escapes into England or Scotland, notice of the escape shall as soon as practicable be given, where such person has been so detained by order of the Lord Chancellor for the time being entrusted by the sign manual of Her Majesty with the care and commitment of the custody of the persons and estates of lunatics in Ireland to the Registrar in Lunacy, and in other cases to the Inspectors of Lunatics in Ireland, who may by writing under the hand of the said registrar, or one of the said inspectors, as the case may be, authorise an application to be made by such person as they think fit to any justice having jurisdiction in the place where the lunatic was so detained for a warrant authorising such person to retake the lunatic and bring him back to such place. Escape from Ireland into England or Scotland.

(2.) Such warrant, when granted, shall in England and Scotland as well as in Ireland be sufficient *prima facie* evidence that the person stated therein to have escaped was so detained as a lunatic under lawful authority as aforesaid, and of the fact of such escape, and shall be sufficient authority for any justice in England, and for any sheriff in Scotland, to countersign the same; and any such warrant so countersigned may be executed in England or Scotland, as the case may be, by retaking the lunatic and bringing him from thence, to the intent that he may be restored to the custody from which he escaped.

Section 88. *Time for Recapture.*—The limit of time within which the warrant must be executed is fixed by section 89, *infra*. By the law of Ireland a lunatic, if he remains there after his escape, may be retaken at any time within fourteen days after his escape. See sections 3 and 4 of the Lunatic Asylums (Ireland) Act, 1875, 38 & 39 Vict. c. 67.

NOTE.

(3.) For the purposes of this section a writing purporting to be signed by the Registrar in Lunacy, or one of the Inspectors of Lunatics in Ireland, as the case may be, shall be deemed to have been signed by him unless the contrary is proved.

Limit of
time of
retaking
lunatic.

89. A warrant, granted under any of the three preceding sections, shall not authorise the retaking of a lunatic after the expiration of the time during which he could have been retaken according to the law in force in the place where he was detained as a lunatic if he had remained there after his escape.

PART III.

JUDICIAL INQUISITION AS TO LUNACY.

The Inquisition.

90. (1) The Judge in Lunacy may upon application by order direct an inquisition whether a person is of unsound mind and incapable of managing himself and his affairs. **Section 90.**
Order for
inquisition as
to lunacy.

Incapacity to manage himself and his affairs means incapacity to manage both.

Sections 94 and 98, *post*, remove any ambiguity in the use of the word “and” instead of “or” in this sub-section in the phrase “managing himself *and* his affairs:” per LINDLEY, L.J., *Re Cathcart* (1893), 1 Ch., on p. 559.

The operation of section 116, *post*, in conjunction with the Lunacy Act of 1908, *post*, has almost entirely rendered applications for inquisitions unnecessary. See notes to section 116, *post*, p. 260.

Who may apply.—The application should be made, if possible, by the husband or wife of the alleged lunatic, or by a near relative.

Person against whom Application may be made.—An inquisition may be directed against resident aliens possessing property in this country: *Re Princess Bariatinski* (1844), 1 Phill. 375; 13 L. J. Ch. 386; 8 Jur. 157.

The Court in Lunacy possesses jurisdiction to order an inquiry in the case of a domiciled foreigner who is only temporarily residing in England: *Re Burbidge*, [1902] 1 Ch. 426; C. A., [1902] W. N. 44. (See also *In re Sottomaior* (1873), 9 Ch. App. 677, and *In re Danby*, 30 C. D. 320.)

Mode of Application.—As to the mode of application, see Rules in Lunacy, 1892, Rules 16 and 18, *post*, p. 638.

(2.) Where the alleged lunatic is within the jurisdiction, he shall have notice of the application and shall be entitled to demand an inquiry before a jury.

Notice of Application.—As to notice to the alleged lunatic, see Rules in Lunacy, 1892, Rule 26, *post*, p. 639. No notice need be given where the alleged lunatic is not within the jurisdiction: section 96, *post*.

Demand of a Jury.—As to how and at what stage to demand a jury, see Rules in Lunacy, 1892, Rule 30, and Sched., Form 7, *post*, pp. 640, 664. The right to demand a jury is confined to the original inquiry unless the lunatic

Section 90. traverse : *Re Talbot* (1882), 20 Ch. D. 269 ; 51 L. J. Ch. 360 ; 45 L. T. 730 ; 30 W. R. 386.

NOTE.

(3.) Upon the hearing of the application, the alleged lunatic may withdraw any demand for a jury made by him.

Withdrawal after Hearing.—If the alleged lunatic having made a demand for a jury at the hearing of the application, subsequently, but before the day fixed for the inquiry appear and, with the consent of the petitioner, apply for permission to withdraw the demand, that application may be treated as if made at the hearing of the original application : *Re Crompe* (1869), L. R. 4 Ch. 653.

Demand of
a jury by
alleged
lunatic.

91. Where the alleged lunatic demands a jury, the Judge in Lunacy shall in his order for inquisition direct the return of a jury, unless he is satisfied, by personal examination of the alleged lunatic, that he is not mentally competent to form and express a wish for an inquisition before a jury ; and the Judge may, where he deems it necessary, and for the purpose of personal examination, require the alleged lunatic to attend him at such convenient time and place as he may appoint.

Personal Examination by Judge.—As to the personal examination of the alleged lunatic by the Judge in Lunacy, see *Re Cumming* (1852), 1 De G. M. & G. 551 ; 21 L. J. Ch. 753 ; 16 Jur. 483.

Cases where
a jury may
be dispensed
with.

92. Where the alleged lunatic does not demand a jury, or the Judge in Lunacy is satisfied by a personal examination that he is not mentally competent to form and express a wish in that behalf, and it appears to the Judge upon consideration of the evidence, and of the circumstances of the case, to be unnecessary or inexpedient that the inquisition should be before a jury, and he accordingly does not in his order for inquisition direct the return of a jury, then the Master shall, without a jury, personally examine the alleged lunatic, and take such evidence, upon oath or otherwise, and call for such information as they think fit or the Judge directs, in order to ascertain whether or not the alleged lunatic is of unsound mind, and shall certify their finding thereon.

Nature and Limits of Inquiry.—As to the nature and limits of the inquiry, see section 98, *post*, p. 245.

Presence of Alleged Lunatic.—The alleged lunatic has a right to be present at the inquiry : *Ex parte Cranmer* (1806), 12 Ves. 445.

Personal Examination of Alleged Lunatic.—The Master has power to require the alleged lunatic to come before him and to order persons in whose custody the alleged lunatic may be to produce him : *Ex parte*

Southcot (1751), 2 Ves. Sen. 405; Ambl. 109. See also *Re Bathe*, [1891] Section 92.
 3 Ch. 274; 60 L. J. Ch. 766; 65 L. T. 205; 40 W. R. 9. This section,
 by necessary implication, also conferred upon the Master power to order
 the alleged lunatic to come before him and submit to be examined by
 medical men appointed by the master for that purpose if he finds that he
 cannot complete his inquiry without such assistance: *Re Bathe, ubi supra*.
 And now by section 26 (2) of the Lunacy Act, 1891, *post*, the Masters may
 make orders for the attendance of an alleged lunatic at such time and place
 as the order directs for examination by the Master or a medical practitioner,
 and such order may be enforced by attachment. See *Re Bathe*, [1892]
 1 Ch. 459; 61 L. J. Ch. 446; 66 L. T. 38; 40 W. R. 369.

NOTE.

Evidence.—The Master has power to administer oaths and summon
 witnesses under section 114, *post*. If disputes arise as to the terms under
 which access of medical witnesses should be allowed for the purposes of
 the inquiry, the Judge in Lunacy may order that two of the Chancery
 visitors shall see the alleged lunatic and report to the Judge as to her state
 of mind: *Re ———, an alleged lunatic* (1881), 18 Ch. D. 26; 45 L. T. 57.
 The right of action of a medical witness for his costs of examining the
 alleged lunatic with a view to giving evidence at the inquiry was not taken
 away by section 11 of the Lunacy Act, 1862, 25 & 26 Vict. c. 86 (see now
 section 109, *post*; *Brockwell v. Bullock* (1889), 22 Q. B. D. 567; 58 L. J.
 Q. B. 289; 37 W. R. 455; 54 J. P. 19.

93. Where the Judge in Lunacy does not in his order for inquisition direct the return of a jury, but the Masters, upon consideration of the evidence, certify that in their opinion an inquisition before a jury is expedient, they shall, without further order, issue their precept to the sheriff, and shall proceed in like manner in all respects, and their proceedings shall be as valid and effectual as if the judge had directed the return of a jury in the first instance.

Jury to
 be had, if
 masters
 certify that it
 is expedient.

94. (1.) Wherever the Judge in Lunacy orders an inquisition before a jury, he may by his order direct an issue to be tried in the High Court, and the question in such issue shall be, whether the alleged lunatic is of unsound mind and incapable of managing himself or his affairs; and the provisions of this Act with respect to commissions of lunacy, and orders for inquisition to be tried by a jury, and the trial thereof, and the constitution of the jury, shall apply to any issue to be directed as aforesaid, and the trial thereof, and subject thereto and to the provisions of this Act such issue and the trial thereof shall be regulated by the Rules of the Supreme Court for the time being in force relating to the trial of issues of fact by a jury, and the verdict upon any such issue finding the alleged lunatic to be of unsound mind and incapable of managing himself or

Inquiries
 before a jury
 may be made
 by means of
 an issue in
 the High
 Court.

Section 94. his affairs shall have the same effect as an inquisition under this Act.

High Court and Supreme Court.—By section 13 (1) of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, it is enacted that in that Act and in every other Act whether passed before or after the commencement of that Act, unless the contrary intention appears, the expression “Supreme Court,” when used with reference to England or Ireland, means the Supreme Court of Judicature in England or Ireland, as the case may be, or any branch thereof; and by section 13 (3) of the same Act the expression “High Court,” when used with reference to England or Ireland, means Her Majesty’s High Court of Justice in England or Ireland, as the case may be.

Rules of Supreme Court.—As to the Rules of the Supreme Court relating to the trial of issues of fact by a jury, see Rules of the Supreme Court, 1883, Order 36.

Practice.—Where the trial of an issue is directed under this section, it is not necessary to commence the proceedings by a writ of summons; but this section gives the judge acting under the order jurisdiction and authority to try the issue, and to do all things necessary, such as swearing the jury and witnesses, &c.: *Re Scott* (1884), 27 Ch. D. 116; 54 L. J. Ch. 194; 51 L. T. (N.S.) 735; 32 W. R. 801.

(2.) On the trial of every such issue the alleged lunatic shall, if he is within the jurisdiction, be examined before the evidence is taken, and at the close of the proceedings, before the jury consult as to their verdict, unless the Judge who tries the issue otherwise directs; and such examinations shall take place either in open court or in private as such Judge directs.

An order to examine an alleged lunatic before a jury against his will can be made by a master when necessary to enable him to come to a decision: *Re B. No. 1*, C. A. (1891), 3 Ch. 274.

On an inquisition being held a master may order a writ of attachment to issue against an alleged lunatic to enforce his attendance, but in the ordinary course he should refer the matter to the judges in open court: *Re B. No. 2*, C. A. (1892), 1 Ch. 459.

A doctor’s report as to evidence he was prepared to give at the hearing is privileged from inspection by the alleged lunatic or his agents: *Re B. No. 3*, C. A. (1892), 3 Ch. 194.

By section 26 (1) of the Lunacy Act, 1891, *post*, the provisions of this sub-section are extended to all inquisitions, and the Masters may exercise the powers conferred on the Judge who tries the issue.

Certificate of masters without a jury to have the force and effect of an inquisition. **95.** Where the Masters certify that the alleged lunatic is of unsound mind, and incapable of managing himself or his affairs, or that he is of sound mind, and capable of managing his affairs, the certificate shall have the same effect as an inquisition taken upon the oath of a jury.

96. Where the alleged lunatic is not within the jurisdiction it shall not be necessary to give him notice of the application for inquisition, and the inquisition shall be before a jury. Section 96.
Jury to be had if lunatic out of jurisdiction.

Notice of Proceedings.—Where an inquiry was directed concerning the lunacy of an alleged lunatic resident abroad, whose presence was dispensed with, service of the order to that effect was directed to be made upon her and upon her stepfather, with whom she was living, by registered letter. *Re Lanwarne* (1881), 46 L. T. 668 ; 30 W. R. 759.

97. The Lord Chancellor may, by order, regulate the number of jurors to be sworn, but so that every inquisition upon the oath of a jury be found by the oaths of twelve men, at least. Number of jury.

Unanimity of Jury.—The jurors need not be unanimous if twelve at least concur in the verdict. See *Re Windham* (1862), 31 L. J. Ch. 720 ; 6 L. T. (N.S.) 479 ; 10 W. R. 499 ; 8 Jur. (N.S.) 448.

98. (1.) The inquisition shall be confined to the question whether or not the alleged lunatic is at the time of the inquisition of unsound mind, and incapable of managing himself or his affairs, and no evidence as to anything done or said by him, or as to his demeanour or state of mind at any time, being more than two years before the time of the inquisition, shall be receivable in proof of insanity, or on the trial of any traverse of an inquisition, unless the person executing the inquisition otherwise directs. Nature and limit of inquisitions.

This sub-section is a consolidated re-enactment of the first part of section 47 of the Lunacy Regulation Act, 1853, 16 & 17 Vict. c. 70, and section 3 of the Lunacy Regulation Act, 1862, 25 & 26 Vict. c. 86, by which the second part of the former enactment was virtually repealed, thus taking away the discretion which the Judge in Lunacy formerly possessed, of directing an inquiry from what time the alleged lunatic had been of unsound mind. *Re Danby* (1885), 30 Ch. D. 320 ; 55 L. J. Ch. 583 ; 53 L. T. (N.S.) 850 ; 34 W. R. 125.

(2.) If upon such inquisition it appears that the alleged lunatic is of unsound mind, so as to be incapable of managing his affairs, but that he is capable of managing himself, and is not dangerous to himself or to others, it may be so specially found and certified. [Special finding.]

Orders on Special Finding.—As to the powers and jurisdiction of the Judge in Lunacy in case of such special finding and certificate, see section 108 (3), *post*, p. 254.

99. The person executing an inquisition [*with a jury*] shall, while so employed, have all the powers, authorities, and discretion of a Judge of the High Court. Power of person executing inquiry.

Section 99. The words "with a jury" were repealed by section 29 and the schedule to the Lunacy Act, 1891, to meet the difficulty remarked upon in *Re Bathe*, [1891] 3 Ch. 274; 60 L. J. Ch. 766; 65 L. T. 205; 40 W. R. 9.

NOTE.

As it now stands the section gives power to commit for disobedience of an order, but, as a matter of convenience and discretion, it is desirable to refer applications for attachment to the Court in Lunacy, in order that a matter involving the liberty of the subject may be dealt with judicially in open Court. *Re Bathe*, [1892] 1 Ch. 459; 61 L. J. Ch. 446; 66 L. T. 38; 40 W. R. 369.

Inquisition may be ordered on report of Commissioners.

100. Where the Commissioners report to the Lord Chancellor that they are of opinion that the property of any person detained or taken charge of as a lunatic, but not so found by inquisition, is not duly protected, or that the income thereof is not duly applied for his benefit, or to the same effect, the report shall be filed with the Masters, and shall be deemed to be an application for inquisition supported by evidence, and the alleged lunatic shall have notice of the report from such person as the Judge in Lunacy directs, and the case shall proceed and be conducted as nearly as may be in all respects as is hereinbefore directed upon an application for inquisition.

Inquiries as to Property.—See as to inquiries as to property by or on the representation of the Commissioners, section 50, *ante*, p. 211.

Notice of Report.—As to notice of the report, see Rules in Lunacy, 1892, Rule 27, *post*, p. 640.

Previous practice of Commissioners.—If the Commissioners did not think an inquisition expedient, they sometimes, instead of making a report, accepted an undertaking from the next of kin that the lunatic should be supplied with all the comforts and luxuries which he was capable of appreciating and able to afford. See 24th Rep., p. 56.

Traversal and Supersedeas of an Inquisition.

Applications for traverse to be made within a limited time.

101. (1.) Any person desiring to traverse an inquisition, not being a verdict upon an issue tried in the High Court, may, within three months next after the day of the return of the inquisition, apply for that purpose to the Judge in Lunacy.

On an application to the Judge in Lunacy by a person found lunatic under a commission, leave to traverse is a matter of right: *Re Cumming* (1852), 1 De G. M. & G. 537; 16 Jur. 483; 21 L. J. Ch. 753, *Re Gilchrist*, C. A., [1906] W. N. 199; C. A., [1907] 1 Ch. 1. But the lunatic will be first personally examined by the Judge in Lunacy to ascertain whether he is really capable of forming and expressing the desire to traverse. Other persons who may be admitted to traverse are the husband, or wife, or an alienee of the lunatic. No traverse will be allowed after the death of the lunatic.

Mode of Application.—As to the method of applying for a traverse, see **Section 101.** Rules in Lunacy, 1892, Rules 18, 23, and 24, and Rule dated 29th Oct., 1900, *post*, pp. 638, 639, 670.

NOTE.

(2.) The Judge shall hear and determine the application, and shall in his order upon it for a traverse limit a time, not exceeding six months from the date of the order, within which the person desiring to traverse and all other proper parties are to proceed to trial of the traverse. [Limited time for trial.]

Failure to proceed.—As to the penalty for failure to proceed within the time limited, see section 102, *infra*.

On issue joined the traverse is conducted before a judge in the High Court.

Limits of Inquiry.—As to the limits of the inquiry upon the trial of a traverse, see section 98 (1), *ante*, p. 245.

(3.) The Judge may by the same or any other order direct that the person desiring to traverse, not being the person the object of the inquisition, shall within three weeks next after the date of the order, give sufficient security to and to the satisfaction of the Masters for all proper parties proceeding to trial within the time to be limited as aforesaid. [Security for going to trial.]

102. Every person who does not within the appointed time apply for a traverse, or who refuses or neglects to give such security as aforesaid, or who does not proceed to trial within the appointed time, shall be absolutely barred of the right of traverse: Provided that the Judge in Lunacy may, under the special circumstances of any particular case, extend the time upon such terms as he thinks just. [Persons not proceeding to trial within limited time barred.]

Mode of application.—As to the mode of application for an extension of time, see Rules in Lunacy, 1892, Rule 19, *post*, p. 639.

Postponement of Trial.—The trial may be postponed on the ground of the absence of material witnesses, or the want of sufficient time to prepare for it: See *Re Armstrong* (1858), 2 De G. & J. 123.

103. If the Judge in Lunacy is dissatisfied with the verdict returned upon a traverse, he may order one or more new trial or trials thereon, as he thinks fit; but no person shall be admitted to traverse oftener than once. [Judge may direct new trials.]

Judge in Lunacy.—As to the Judge in Lunacy, see section 108, *post*, p. 250.

Mode of application.—As to the mode of application for a new trial, see Rules in Lunacy, 1892, Rule 19, *post*, p. 639.

Costs.—As to costs, see section 109, *post*, p. 254.

104. A traverse of a verdict upon an issue tried in the High Court shall not be allowed, but the Judge in Lunacy may, if he thinks fit, upon application within three months next after [New trial of an issue.]

Section 104. the trial of any such issue, order a new trial of the issue, or a new inquisition as to the insanity of the alleged lunatic, subject to such directions and upon such conditions as to the Judge may seem proper.

Commission may be superseded on conditions. **105.** If it appears to the Judge in Lunacy that it is not expedient or for the benefit of the lunatic that the commission should be unconditionally superseded, but that the same should be superseded on terms and conditions, he may, upon the consent of the lunatic and any other persons whose consent he deems necessary, order the commission to be superseded upon such terms and conditions as he thinks proper, and the Judge may make such orders as he thinks fit for giving effect to such terms and conditions.

Conditional Supersedeas.—Even before those statutes it was held that the inquisition, instead of being immediately superseded, might be suspended temporarily for the purpose of testing the effect of the removal of the previous restraint : *Re Blackmore* (1863), 1 De G. J. & S. 84 ; 32 L. J. Ch. 436 ; 8 L. T. (N.S.) 264 ; 9 Jur. (N.S.) 90 ; 1 N. R. 187.

Mode of Application for Supersedeas.—As to the method of applying for a *supersedeas*, see Rules in Lunacy, 1892, Rules 23 and 24, and Rule dated 29th Oct., 1900, *post*, pp. 639, 670. The petition should be supported by affidavits from medical men and others, and the person of unsound mind must be present on the presentation of the petition for examination by the court.

Power to supersede inquisition as regards commitment of person.

106. (1.) The Judge in Lunacy, if satisfied by a report of the Commissioners, or of one of the Chancery Visitors, or on any other evidence, that a lunatic so found by inquisition is cured or capable of managing himself, and not dangerous to himself or others, though incapable of managing his affairs, may, if he thinks it desirable that the ordinary proceedings for a *supersedeas* should not be insisted on, by order supersede the inquisition, so far as the same finds that the lunatic is incapable of managing himself, and rescind or vary any order for the commitment of the person of the lunatic.

Previous to the Lunacy Act, 1889, 52 & 53 Vict. c. 41, it had been held, in the *Countess of Stair's Case*, 2 Ph. 242, that a commission could not be superseded as to the person of the lunatic, and at the same time continued in force against the parties accountable for the lunatic's estate.

(2.) An order under this section may be made on such terms and conditions as the Judge thinks fit.

(3.) Notice of an order under this section shall be forthwith given to the committee of the person of the lunatic, and also to the person under whose care the lunatic is.

Transmission of Inquisition and Supersedeas to Ireland and England. Section 107.

107. Where it is desired that an inquisition taken, or a writ of supersedeas issued in England or Ireland, should be acted upon in Ireland or England, the proper officer may, under order of the Judge in Lunacy in England, or the Lord Chancellor for the time being entrusted by the sign manual of Her Majesty with the care and commitment of the custody of the persons and estates of lunatics in Ireland, as the case may be, transmit a transcript of the record of the inquisition, or of the writ, to the Registrar, in Lunacy in Ireland or the High Court in England as the case may be, which transcript shall thereupon be entered and be of record there respectively, and shall, when so entered of record, and if and so long only as the Lord Chancellor entrusted as aforesaid in Ireland and the Judge in Lunacy in England, as the case may be, thinks fit, be acted upon by them respectively, and be of the same validity and effect, to all intents and purposes, as if the inquisition had been taken or the writ issued in Ireland or England respectively.

Equality of Jurisdiction.—The meaning of this section is that, after transmission of the transcript, the English court may act upon the decision of the Irish court without further inquiry, and so also the Irish court may act upon the decision of the English court without further inquiry. Thus where a lunatic so found in England is resident there, but possessed of property in Ireland, the committee of the person will be appointed in England, and upon transmission of the record of the inquisition to Ireland, the committees of the estate will be appointed in Ireland, and *vice versa*: *Re Tottenham* (1837), 2 Myl. & Cr. 39; *Re B.* 1 Ir. Eq. 181.

But applications to set aside proceedings must be made to the court which originally made the order: thus where a person has been found lunatic upon an inquisition taken in Ireland, and a transcript of the record transmitted here, the English Court cannot set aside the Irish inquisition on the ground of irregularity, nor supersede the inquisition so far as Ireland is concerned, but any application for such purpose must be made to the court in Ireland: *Re Talbot* (1882), 20 Ch. D. 269; 51 L. J. Ch. 360; 45 L. T. (N.S.) 730; 30 W. R. 386.

Fees and Percentage.—As to the application of the provisions of this Act with respect to fees and percentages in cases where the record of the inquisition is thus transmitted, see section 27 (3) of the Lunacy Act, 1891, *post*, p. 487.

PART IV.

JUDICIAL POWERS OVER PERSON AND ESTATE OF LUNATICS.

The Judge in Lunacy.

Section 108. **108.** (1.) The jurisdiction of the Judge in Lunacy under this Act shall be exercised either by the Lord Chancellor for the time being entrusted by the sign manual of Her Majesty with the care and commitment of the custody of the persons and estates of lunatics, acting alone or jointly with any one or more of such Judges of the Supreme Court as may for the time being be entrusted as aforesaid, or by any one or more of such Judges as aforesaid.

—
Jurisdiction
of Judge in
Lunacy.

Ancient Original Jurisdiction in Lunacy.—This sub-section embodies the existing law as to the jurisdiction in lunacy. The history of that jurisdiction may be briefly traced as follows:—

The care and custody of the persons and estates of idiots and lunatics is, at common law, vested in the Crown as a branch of the royal prerogative, because the king is bound as of right by his laws to defend his subjects and their goods and chattels, lands, and tenements, and because every subject is in the king's protection. And this prerogative is fully recognised by the statute *De Prærogativa Regis*, which is but a declaration of the common law. (See *The Statutes Revised*, vol. 1, p. 80, *et seq.*)

By that statute it was declared that "the king shall have the custody of the lands of natural fools, taking the profits of them without waste or destruction, and shall find them their necessities, of whose fee soever the lands be holden; and after the death of such idiots he shall render the same to the right heirs, so that such idiots shall not aliene, nor shall their heirs be disinherited. Also the king shall provide, when any that beforetime hath had his wit and memory happen to fail of his wit, as there are many that have lucid intervals, that their lands and tenements shall be safely kept without waste and destruction, and that they and their household shall live and be maintained competently with the profits of the same, and the residue besides their sustentation shall be kept to their use, to be delivered unto them when they come to their right mind; so that such lands and tenements shall in no wise within the aforesaid time be aliened; and the king shall take nothing to his own use. And if the party die in such

estate, then the residue shall be distributed for the good of his soul by the **Section 108.**
advice of the ordinary."

NOTE.

This branch of the royal prerogative was, however, never exercised except upon office found; and for the purpose of its exercise, since the abolition of the Court of Wards and Liveries in 1660, the Crown has, by sign manual, delegated its powers and authority to some high officer or officers of justice or state. The officer so selected has usually been the Keeper of the Great Seal, and since the Revolution the Lord Chancellor, whenever there was one, has always been the Keeper of the Great Seal, and entrusted by royal warrant, under the sign manual, with the exercise of the royal prerogative in respect of the care and custody of the persons and estates of idiots and lunatics, a course convenient, amongst other reasons, because he could exercise his jurisdiction as Chancellor in aid of his jurisdiction under the royal warrant.

In addition to the authority so entrusted to the Lord Chancellor under the royal sign manual at common law, aided by his general jurisdiction as Lord Chancellor, he had a certain statutory jurisdiction conferred upon him by various statutes of the reigns of George II. and George III., both in respect of his office as Lord Chancellor and also as and when entrusted, by virtue of the sign manual, with the custody of the persons and estates of lunatics, idiots, and persons of unsound mind so found by inquisition. Subsequently, when the office of the Lords Justices of Appeal in Chancery had been created by the 14 & 15 Vict. c. 83, although that statute contained a saving of the powers, authorities, and duties of the Lord Chancellor under and by virtue of any appointment under the sign manual of the Crown as having the custody of the persons and estates of persons found idiot, lunatic, or of unsound mind, it was found expedient to make out a similar warrant to each of the Lords Justices, and provision was made by section 11 of the 15 & 16 Vict. c. 55, and section 15 of the 15 & 16 Vict. c. 87, for extending to them all the statutory jurisdiction of the Lord Chancellor when so entrusted by sign manual as above mentioned, as well as his other statutory jurisdiction in relation to lunatics.

On the general reform of the Lunacy Laws in 1853, all the powers, authorities, and duties to be had, performed, and exercised under the Lunacy Regulation Act, 1853, 16 & 17 Vict. c. 70, by the Lord Chancellor entrusted under the sign manual with the care and commitment of the custody of the persons and estates of persons found idiot, lunatic, or of unsound mind were, by section 2 of that Act, to be had, exercised, and performed under that Act as well by the Lord Chancellor, acting either alone or jointly with both or either of the Lords Justices for the time being entrusted as aforesaid concurrently with the Lord Chancellor, as by both the Lords Justices so entrusted acting jointly apart from the Lord Chancellor. And by section 13 of the Court of Chancery (Officers) Act, 1867, 30 & 31 Vict. c. 87, it was further enacted that all the jurisdiction of the Lords Justices under the Lunacy Regulation Act, 1853, or any other Act, as being entrusted as aforesaid, might be exercised not only by both of the Lords Justices jointly, but also by either of them separately.

Ancient Appeals to Crown in Council.—Appeals from the Lord Chancellor or Lords Justices acting in lunacy lay immediately to the Crown in Council,

Section 108. as being a matter of prerogative, and not to the House of Lords *Per cur.*
 in *Re Cathcart*, [1893] 1 Ch. on p. 469.

NOTE.

Present original Jurisdiction.—Under the Supreme Court of Judicature Acts, 1873 and 1875, which came into operation together on the 1st November, 1875, and are to be construed as one Act, it was provided by section 17 of the Supreme Court of Judicature Act, 1873, 36 & 37 Vict. c. 66, that any jurisdiction usually vested in the Lord Chancellor or in the Lords Justices of Appeal in Chancery, or either of them, in relation to the custody of the persons and estates of idiots, lunatics, and persons of unsound mind, should not be transferred to or vested in the High Court of Justice. And by section 7 of the Supreme Court of Judicature Act, 1875, 38 & 39 Vict. c. 77, it was enacted that any jurisdiction usually vested in the Lords Justices of Appeal in Chancery, or either of them, in relation to the persons and estates of idiots, lunatics, and persons of unsound mind, shall be exercised by such judge or judges of the High Court of Justice or Court of Appeal as may be entrusted by the sign manual of Her Majesty or her successors with the care and commitment of the custody of such persons and estates; and all enactments referring to the Lords Justices as so entrusted shall be construed as if such judge or judges so entrusted had been named therein instead of such Lords Justices; and then followed a proviso concerning the then existing Lords Justices, JAMES and MELLISH, both since deceased. It may also be noted with regard to the jurisdiction of the Lords Justices sitting in Lunacy to make orders in the Chancery Division by virtue of a request from the Lord Chancellor under section 51 of the Act of 1873, that it has been held that the letter of the Lord Chancellor dated the 10th November, 1875, addressed to each of the Lords Justices so appointed, applies to all applications in lunacy which also require an exercise of the jurisdiction of the Chancery Division: *Re Platt* (1887), 36 Ch. D. 410; 57 L. J. Ch. 152; 57 L. T. (N.S.) 857; 36 W. R. 273.

In connection herein see also *Re Armfield*, 88 L. T. Jo. 97; (1889) W. N. 208.

Appeals to Court of Appeal.—By section 18 (5) of the Judicature Act, 1873, 36 & 37 Vict. c. 66, it is provided that the Court of Appeal shall have all the jurisdiction usually vested in or capable of being exercised by Her Majesty in Council upon appeal from any order in lunacy made by the Lord Chancellor or any other person having jurisdiction in lunacy. As to practice and procedure generally in such appeals, see Rules of Supreme Court, 1883, Order 58.

Appeals to House of Lords.—By section 1 of the Appellate Jurisdiction Act, 1876, 39 & 40 Vict. c. 59, subject as in that Act mentioned, an appeal shall lie to the House of Lords from any order or judgment of the Court of Appeal. There seems to be nothing in the Act to prevent this section from giving an appeal to the House of Lords from any order or judgment of the Court of Appeal in a lunacy matter.

[Custody of person and estate.]

(2.) The Judge in Lunacy may make orders for the custody of lunatics so found by inquisition and the management of their estates, and every such order shall take effect as to the custody of the person immediately, and as to the custody of the estate

upon the Master's certificate of completion of the committee's security. Section 108.

Choice of Committees.—After inquisition found there is an inquiry before the Master as to various particulars, and amongst others as to who ought to be appointed committees of the person and of the estate. See Rules in Lunacy, 1892, Rule 31, *post*. A committee of the person and estate may be appointed without a reference where the property is small: *Re Collins*, 6 Jur. 545; *Ex parte Farrow*, 1 Russ. & Myl. 112; *Ex parte Pickard*, 3 Ves. & B. 127.

In the choice of a committee relations are preferred to strangers, unless there is a specific objection, and their interest is not regarded, the object being to appoint the person who will make the best provision for the lunatic's care and comfort and the protection of his property. Even the husband has no absolute right to be appointed committee of the person of his wife: *Re Davy*, [1892] 3 Ch. 38; 61 L. J. Ch. 578; 67 L. T. 180; 41 W. R. 96.

A wife who is not the committee has no power to attend the proceedings of the committee in matters appertaining to lunatic husband's estate. *Re Townshend*, [1911] W. N. 199.

It being proposed to appoint as committee a person resident out of the jurisdiction, the Master reported that the proposed committee being resident out of the jurisdiction, he was unable to approve of him. The court referred the report back to the Master to say whether he should have approved of him if he had resided within the jurisdiction, and, if that was done, directed that he might be appointed: *Re Bruère* (1881), 17 Ch. D. 775; 45 L. T. (N.S.) 290; 30 W. R. 223.

In the case of a lunatic who was born in the United States and who after the death of her husband (who was a Russian) bought an estate at Slough in England, subsequently becoming a lunatic in France, where a committee was appointed, it was held that the English Court had jurisdiction over the English property, and that the French committee should join with the heir at law, in the application. *Re Soltykoff*, C. A., [1891] 1 Q. B. 413; (1898), W. N. 775.

Where a person is found lunatic on inquisition taken in England, committees of the person will be appointed in England, notwithstanding that the property of the lunatic is situated in Ireland, and that a transcript of the record of the inquisition has been transmitted to Ireland with a view to the appointment of committees of the estate in Ireland: *Re Tottenham* (1837), 2 Myl. & Cr. 39. See also notes to section 107, *ante*.

Order can be made in English Court appointing new trustees and vesting in them lands in Ireland, where surviving trustee of an estate consisting partly of lands in Ireland had become insane. *Re Lamotte*, 4 Ch. D. 325; 25 W. R. 149; 36 L. T. 231.

Continuing Order.—As to making an order continuing the custody of the estate or person to surviving or continuing committees where several are appointed, see Rules in Lunacy, 1892, Rule 69, *post*, p. 647.

Security.—The committee of the estate is always required to give security: *Re Frank*, 2 Russ. 450. The committee of the person is not required to give security, nor will he, as a general rule, be accepted as surety for the

Section 108. committee of the estate: *Re Burton* (1851), 21 L. J. Ch. 221. See further as to the security required of the committee of the estate, Rules in Lunacy, 1892, Rules 70—72, 79, 117, *post*, pp. 647, 648, 649, 655.

NOTE.

[Commitment of estate but not of person.]

(3.) Where upon the inquisition it is specially found or certified that the person to whom the inquisition relates is of unsound mind so as to be incapable of managing his affairs, but that he is capable of managing himself, and is not dangerous to himself or to others the Judge in Lunacy may make such orders as he thinks fit for the commitment of the estate of the lunatic and its management, including all proper provisions for the maintenance of the lunatic, but it shall not be necessary, unless in the discretion of the judge it appears proper to do so, to make any order as to the custody or committal of the person of the lunatic.

An order in lunacy for committee to pay daughters of a lunatic surplus funds, becomes determined by death of lunatic and after death, any surplus becomes part of corpus of lunatic's estate. *Re Bennett*, [1913] 2 Ch. 318.

[Order pending traverse or new trial.]

(4.) Any order under this section may be made notwithstanding proceedings are pending for a traverse or new trial, and any person acting upon an order so made shall be indemnified as effectually as if there had been no right of traverse or new trial.

Traverses and New Trials.—As to traverses and new trials, see sections 101—104, *ante*, pp. 246, 247.

Costs.

109. The costs of all proceedings for the purpose of ascertaining whether a person is a lunatic, and of all proceedings in the matter of a lunatic shall be in the discretion of the Judge in Lunacy, who may order all or any of such costs to be paid by the lunatic or alleged lunatic, or to be charged upon and paid out of his estate, or such part thereof as the Judge thinks fit, or by any other party to the proceedings; and in the case of the death of the lunatic or alleged lunatic, an order for payment of costs out of his estate may be made within six years next after the right to recover the costs has accrued, and every such order shall have the effect of an order of the High Court.

The right of action of a medical witness for his costs of examining the alleged lunatic with a view to giving evidence at the inquiry was not taken away by section 11 of the Lunacy Regulation Act, 1862, 25 & 26 Vict. c. 86: *Brockwell v. Bullock* (1889), 22 Q. B. D. 567; 58 L. J. Q. B. 289; 37 W. R. 455; 54 J. P. 19.

Rules as to Costs.—See further as to costs and taxation of costs. Rules in Lunacy, 1892, Rules 110—115, *post*, pp. 654, 655.

Costs of Inquiry.—The cases as to the costs of the inquiry show that the

court has regard to whether the inquiry was instituted *bonâ fide* and on reasonable grounds, and, if so, will order the costs to be paid out of the estate, even where the result was to establish the sanity of the alleged lunatic. See per LINDLEY, L.J., in *Re Cathcart*, [1892] 1 Ch. on p. 558—561, and per Lord HALSBURY in C. A., [1893] 1 Ch. on p. 472.

Section 109.
NOTE.

A wife living separate from her husband presented a petition for inquiry into his state of mind, grounded on the fact that he had had previously attacks of mental aberration (from which, however, he had always recovered), and was, at the time of presenting the petition, placed under personal restraint by his brother and sister, who refused to allow medical men sent by the wife to see him, or to allow the wife to have any communication with him. The court sent a medical officer to see the alleged lunatic, and the medical officer reported that he was completely recovered:—Held, that the costs of the petitioner ought to be paid out of the alleged lunatic's estate: *Re F*—(1863), 2 De G. J. & S. 89; 33 L. J. Ch. 333; 9 L. T. (N.S.) 698.

Where an inquiry, based upon a report of the Commissioners in Lunacy, had resulted in establishing the sanity of the alleged lunatic, the court ordered the costs to be paid out of his estate: *Re C*—(1874), L. R. 10 Ch. 75; 23 W. R. 377.

On a petition for inquiry the medical visitor, by direction of the court, saw the alleged lunatic, and made such a report as, in the opinion of the court, to make an inquiry proper, and an inquiry accordingly took place, resulting in a verdict that the alleged lunatic was of sound mind. The court being of opinion that the proceedings had been originated by the petitioner's solicitor for his own profit made no order as to costs: *Re S*—(1876), 4 Ch. D. 301; 46 L. J. Ch. 233; 35 L. T. (N.S.) 828; 25 W. R. 133, but see also *Re Weston*, 116 L. T. Jo. 34.

An inquiry instituted on the petition of a husband as to the state of his wife's mind, resulting in a finding that she was of sound mind, and capable of managing herself and her affairs, the court ordered that two-thirds of his costs of the inquiry, and also his costs of the application should be paid by the wife out of her separate estate: *Re Cathcart*, [1893] 1 Ch. 466; 62 L. J. Ch. 320; 68 L. T. 358; 41 W. R. 277.

Costs in case of Death.—A lunatic so found by inquisition died before a committee of the estate could be appointed. On the petition of one of the next-of-kin it was declared that the costs of the proceedings in lunacy were properly incurred, and that such costs, and also the costs of the application, ought to be paid out of the estate of the deceased lunatic in a due course of administration: *Re Meares* (1879), 10 Ch. D. 552; 48 L. J. Ch. 190; 40 L. T. (N.S.) 111; 27 W. R. 369.

The six years begin to run from the time when the right to recover the costs has accrued. See *Re Cumming* (1860), 2 De G. F. & J. 376; 30 L. J. Ch. 29; 3 L. T. (N.S.) 391; 7 W. R. 213. See also *Wilkinson v. Wilkinson*, 22 L. J. Ch. 155.

The taxed costs of the commission of lunacy are a debt against the assets of a lunatic, although at his death a traverse, applied for by himself, be pending: *Re Cumming* [1852], 5 De G. M. & G. 30; 23 L. J. Ch. 261 18 Jur. 181.

Section 109. After presentation, but before hearing, of a petition to confirm the Master's report as to the administration of the estate of a lunatic so found, the lunatic died, and the court refused to make any order on the petition, or to allow the costs in the absence of the legal personal representative, but directed the petition to stand over with liberty to apply as to costs when the fund in court came to be dealt with: *Re Popham* (1880), 44 L. T. (N.S.) 323; 29 W. R. 403.

NOTE.

Costs of Traverse.—In *Wentworth v. Tubb* (1842), 2 Y. & Coll. C. C. 537; 12 L. J. Ch. 61; 7 Jur. 738, the costs of an unsuccessful traverse were allowed out of the estate.

Appeals from Orders as to Costs.—An appeal lies to the Court of Appeal under section 18 of the Judicature Act, 1873, 36 & 37 Vict. c. 66, from orders made by the Judge in Lunacy under this section, notwithstanding section 49 of the Judicature Act, 1873; *Re Cathcart*, [1893] 1 Ch. 466; 62 L. J. Ch. 320; 68 L. T. 358; 41 W. R. 277.

Enforcing Orders as to Costs.—Payment of costs may be enforced against the estate by orders for sale, charge, mortgage, or other disposition of the property of the lunatic under section 117, *post*. Payment of costs of an inquiry resulting in establishing the sanity of an alleged lunatic married woman may be enforced by an order to transfer consols forming part of her separate property, and if she refuses to transfer, by a further order under section 14 of the Judicature Act, 1884, 47 & 48 Vict. c. 61, directing the official solicitor to execute the transfer, and such an order is not a charging order under the Rules of the Supreme Court, Order 66, Rule 1: *Re Cathcart, ubi supra*.

Powers to extend to British possessions.

110. The powers and authorities given by this Act to the Judge in Lunacy shall extend to property within any British possession.

Definition of "property," section 341, *post*, p. 452.

Compare section 41 of the Trustee Act, 1893, 56 & 57 Vict. c. 53, as amended by section 2 of the Trustee Act, 1893, Amendment Act, 1894, 57 & 58 Vict. c. 10.

British Possession.—By section 18 (3) of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, it is enacted that in this Act, and in every Act passed after the commencement of this Act, unless the contrary intention appears, the expression "British possession" shall mean any part of Her Majesty's dominions exclusive of the United Kingdom, and where parts of such dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one British possession.

The Masters.

Masters in Lunacy.

111. (1.) There shall continue to be Masters in Lunacy as heretofore, and they shall, subject to the provisions of this Act and the Rules in Lunacy, execute and perform the same powers and duties as heretofore, and shall perform such other duties

for the benefit of lunatics and their estates as the Lord Chancellor may direct. Section 111.

Provisions of this Act.—By section 1 of the Lunacy Act, 1891, 54 & 55 Vict. c. 65, *post*, that Act is to be construed as one with this Act, and by section 27 (1) of that Act, subject to rules in lunacy, the jurisdiction of the Judge in Lunacy as regards administration and management, see sections 116—130, *post*, pp. 260—283, may be exercised by the Masters.

Rules in Lunacy.—As to the Rules in Lunacy, see section 338 (2), *post*, p. 446, and the Rules in Lunacy, 1892, Rules 10—15, and 1893, Rule 2, *post*, pp. 637, 638, 667.

Masters are ex-officio Visitors.—By section 166, *post*, the Masters are made *ex-officio* visitors of lunatics so found, jointly with the Chancery Visitors.

(2.) The powers and authorities of the Masters shall be joint and several, and they shall execute commissions and conduct inquiries connected with lunatics or their estates, and perform all other duties committed to them, either separately or together, and at such places, within such times, and in such manner as the Rules in Lunacy, and, subject thereto, as the Judge in Lunacy may by any special order direct.

See Lunacy Act, 1891, section 27, *post*, p. 487.

(3.) A Master must be a barrister of not less than ten years' standing, and shall be appointed by the Lord Chancellor. [Qualification and appointment.]

(4.) A Master shall, before being capable of acting, make before the Lord Chancellor, in the manner now used, the declaration to be made by a Master set forth in the First Schedule. [Declaration.]

(5.) The Masters shall have such clerks and officers as the Lord Chancellor may, with the concurrence of the Treasury as to number and salaries, determine. [Clerks and officers.]

(6.) The salaries of the Masters, their clerks and officers, and their expenses to the amount sanctioned by the Treasury, shall be paid out of moneys provided by Parliament. [Salaries.]

See Lunacy Act, 1908, section 4, *post*, p. 491, as to appointment of Barrister to undertake duties in the event of the illness of Master.

Salaries and Pensions of Masters.—By section 21 of the Supreme Court of Judicature (Officers) Act, 1879, 42 & 43 Vict. c. 78, it is enacted that for the purposes of the provisions of that Act relating to salaries and pensions, an officer in lunacy shall be in the same position as if he were an officer of the Supreme Court. The provisions so referred to are contained in sections 15—20 inclusive of the same Act.

It has been further enacted by section 20 of the Supreme Court of Judicature Act, 1881, 44 & 45 Vict. c. 68, that the provisions of section 14 of the Courts of Justice (Salaries and Funds) Act, 1869, 32 & 33 Vict. c. 91, shall henceforth be applicable to all officers of the Supreme Court of Judicature and all officers in lunacy in the same manner and subject to the same

Section 111. conditions as is thereby enacted concerning the officers in the Courts of Chancery, Bankruptcy, and Admiralty: Provided always, that any order to be made by the Treasury as to any officers not heretofore included within that section of the said Act shall be made with the concurrence of the Lord Chancellor, and also in the case of officers who are appointed by any other persons or person than the Lord Chancellor, either solely or jointly with the Lord Chancellor, with the concurrence of the persons or person having such power of appointment: Provided also that no order made under this Act which would not have been heretofore authorised by the said section or otherwise by law shall, without his consent, apply to any officer holding any office at the time of the commencement of this Act.

NOTE.

Expenses of Masters and Chancery Visitors.—By section 163 (4), *post*, provision is made with regard to the salaries and expenses of Chancery Visitors in terms exactly similar to the terms of this section 111 (6), with regard to the salaries and expenses of Masters. And with regard to the expenses of both Masters and Visitors, the following Order, dated 26th January, 1891, has been made by the Lord Chancellor, with the consent of the Treasury, prescribing allowances for subsistence, &c. :—

“It is ordered and directed, with the sanction of the Lords Commissioners of Her Majesty’s Treasury, that the amount of expenses to be allowed in the case of every Master in Lunacy and Visitor of Lunatics hereafter appointed under the Lunacy Act, 1890, shall be as follows, namely, his actual outlay in travelling in the performance of his duties as such Master or Visitor, and one pound eleven shillings and sixpence for each night’s absence from home, or ten shillings and sixpence for each day’s absence of more than ten consecutive hours, or the actual outlay on subsistence during the time of any necessary absence after 8.30 P.M., for his expenses and subsistence; and fifteen shillings for each night’s absence from home, or five shillings for each day’s absence of more than ten consecutive hours for the expenses and subsistence of a clerk (when accompanying a Master in Lunacy); every such night’s absence including a period of twenty-four hours. All such allowances for travelling and other expenses and subsistence as aforesaid to be paid on such days and in such manner as the said Lords Commissioners shall from time to time direct.

“The 26th day of January, 1891.

“(Signed) HALSBURY, C.

“We approve.

“(Signed) SIDNEY HERBERT,

“HERBERT EUSTACE MAXWELL,

“Lords Commissioners of

“Her Majesty’s Treasury.”

Commission
of inquiry.

112. A general commission of inquiry, with such variations as may be expedient, may from time to time be issued in duplicate under the Great Seal, directed to the Masters by name, jointly and severally, who shall by virtue thereof proceed, in each case of alleged lunacy concerning which the Judge in Lunacy orders them to inquire, in like manner and with all the

like powers and authorities (subject to the provisions in this **Section 112.** Act contained) as heretofore.

Commission of Lunacy.—As to the extension of the meaning of the expression “commission of lunacy” in other Acts, see section 334, *post*, p. 442.

Order for Inquiry.—As to the order for inquiry, see section 90, *ante*, p. 241.

113. The Lord Chancellor may issue a commission specially to any person or persons alone or in addition to the Masters, or one of them, if upon any occasion he thinks it proper to do so ; and the provisions of this Act so far as applicable shall extend to every commission so issued specially. Special Com-
mission may
issue.

Error in Name.—An error in the name of the lunatic in the commission may be corrected in further proceedings by an order of the court: *Re Crawford* (1835), 1 Myl. & Cr. 240.

114. The Masters may administer any oath and take any affidavit and may summon any person to give evidence before them, and every person so summoned shall be bound to attend as required by the summons. Power to
summon
witnesses.

As to powers of summoning witnesses, see *Ex parte Lund* (1826), 6 Ves. 784.

Oaths and Affidavits.—By section 3 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63 (re-enacting part of section 4 of Lord BROUGHAM’S Act, 1850, 13 & 14 Vict. c. 21), in every Act passed after the year 1850, unless the contrary intention appears, the expression “oath” and “affidavit” shall, in the case of persons for the time being allowed by law to affirm or declare instead of swearing (see the Oaths Act, 1888, 51 & 52 Vict. c. 46), include affirmation and declaration, and the expression “swear” shall, in the like case, include affirm and declare.

115. (1.) The medical attendant of every lunatic so found by inquisition shall (*before the expiration of one, three, and six years respectively from the commencement of this Act, and*) before the expiration of every (*subsequent*) period of five years after the expiration of six years from the commencement of this Act, send to the Masters a report as to the mental and bodily condition of the patient, with a certificate under his hand certifying, if it is the fact, that the patient is still of unsound mind and a proper person to be detained under care and treatment. Order for
custody of
person of
lunatic so
found to de-
termine un-
less continued.

The words in brackets were repealed by the Statute Law Revision Act, 1908.

Lunatics not so found.—These reports and certificates as to lunatics so found resemble the reports and certificates as to lunatics (not so found) detained in institutions or as single patients which are required under section 38 (4), as re-enacted by section 7 of the Lunacy Act, 1891, *ante*.

Section 115. (2.) If, before the expiration of any of the periods hereinbefore mentioned, such report and certificate are not sent to the Masters, they shall inquire as to the omission, and unless they are satisfied that the lunatic is still of unsound mind, the order for the commitment of the person of the lunatic as to whom such report and certificate are not sent shall determine at the expiration of such period ; but nothing herein contained shall affect the commitment of the estate.

[Determination of commitment of person.]

(3.) A Master may, by order under his hand, extend the time within which any report and certificate under this section is to be sent to the Masters, and if the time is so extended, the order for commitment of the person of the lunatic as to whom the time is so extended shall continue in force until the expiration of the extended time, but such extended time shall not exceed six months.

[Extension of time for report.]

(4.) Where any order for commitment of the person of a lunatic has determined under this section, the Masters shall forthwith give notice of such determination to the committee of the person of the lunatic and to the person under whose care the lunatic is.

[Notice of determination of commitment.]

Management and Administration. (a)

116. (1.) The powers and provisions of this Part of this Act relating to management and administration apply :—

Extent of the administrative powers of the judge in lunacy.

(a.) To lunatics so found by inquisition ;

Definition of “inquisition,” section 341, *post*, p. 450.

(b.) To lunatics not so found by inquisition for the protection or administration of whose property any order has been made before the commencement of this Act ;

Practice.—As to applications with regard to the property of such persons, see Rules in Lunacy, 1892, Rules 48—55 inclusive, *post*, pp. 644, 645.

(c.) To every person lawfully detained as a lunatic though not so found by inquisition ;

The expression “lawfully detained as a lunatic though not so found by inquisition,” means “lawfully detained,” orders could therefore be made in the case of idiots under the now repealed Idiots Act, 1886. *Re*

(a) By section 27 (1) of the Lunacy Act, 1891, *post*, subject to the Rules in Lunacy, the jurisdiction of the Judge in Lunacy, as regards administration and management, may be exercised by the Masters, and every order of a Master in that behalf shall take effect unless annulled or varied by the Judge in Lunacy.

Whalley, [1906] W. N. 42; [1906] 1 Ch. 565; distinguishing *Re Watkins* Section 116. (1896), 2 Ch. 336.

The duties of a receiver do not terminate at the expiration of the reception order, *Re B.A.S.*, [1898] 2 Ch. 392; 78 L. T. 638.

NOTE.

- (d.) To every person not so detained and not found a lunatic by inquisition, with regard to whom it is proved to the satisfaction of the Judge in Lunacy that such person is through mental infirmity arising from disease or age incapable of managing his affairs;

The Master in Lunacy may make an order, appointing a receiver of stocks standing in the Bank of England in the name of any person who is rendered incapable "through mental infirmity arising from disease or age of managing his affairs." *Re Browne*, C. A., [1894] 3 Ch. 412.

An instance under paragraph (d) will be found in *Re X.*, [1894] 2 Ch. 415; 63 L. J. Ch. 613; 42 W. R. 657.

Practice.—As to applications with respect to the property of such persons, see Rules in Lunacy, 1892, Rules 48—56 inclusive, *post*, pp. 644, 645.

- (e.) To every person with regard to whom it is proved to the satisfaction of the Judge in Lunacy by the certificate of a Master, or by the report of the Commissioners, or by affidavit or otherwise, that such person is of unsound mind and incapable of managing his affairs, and that his property does not exceed two thousand pounds in value, or that the income thereof does not exceed one hundred pounds per annum;

Value of Property.—In ascertaining the value of the property for the purposes of this section, the debts of the lunatic and expenses incurred for his maintenance since he became of unsound mind ought to be deducted: *Re Adams* [1864], 4 De G. J. & S. 182; 9 L. T. (N.S.) 626; 12 W. R. 291; 10 Jur. (N.S.) 137; 3 N. R. 339; *Re Faircloth* [1879], 13 Ch. D. 307; 28 W. R. 481.

Practice.—As to applications with respect to the property of the persons mentioned in the above paragraph, see Rules in Lunacy, 1892, Rules 48—55 inclusive, *post*, pp. 644, 645.

Grant of Administration for Lunatic's Benefit.—Administration to a small estate will not be granted to a stranger for the use and benefit of a sole next-of-kin being a lunatic not so found, without an order first made under this section so as to render the property available for maintenance: *Re Slumbers* [1865], 4 Sw. & Tr. 32; 34 L. J. P. & M. 93; 12 L. T. (N.S.) 582.

A Master in Lunacy has no jurisdiction to make a Vesting Order as a part of the administration of the lunatic's estate, as to trust property which, new trustees having been appointed, remains vested in the old trustees, one of whom is a lunatic. *Re Langdale*, [1901] 1 Ch. 3; 83 L. T. 451; 49 W. R. 177; distinguishing *Re Fuller*, [1900] 2 Ch. 551; 83 L. T. 208; 49 W. R. 90.

Section 116. *Original Jurisdiction of High Court.*—In addition to the jurisdiction under

NOTE.

this statute, it may be observed that the High Court has an original jurisdiction, derived from the old Court of Chancery, to give directions as to the application of the property of a person of unsound mind not so found for his maintenance, but in all the cases in which it has been exercised two circumstances have occurred; first, the property has been small; and, secondly, it was impossible for some reason or other, to obtain an order in lunacy: *Vane v. Vane* (1876), 2 Ch. D. 124; 45 L. J. Ch. 381; 34 L. T. (N.S.) 613; 24 W. R. 602. There is no such power to appoint a guardian of the person: *Re Bligh* (1879), 12 Ch. D. 364; 49 L. J. Ch. 56; 41 L. T. 570; 27 W. R. 876. *Re Brandon's Trusts* (1879), 13 Ch. D. 773; 41 L. T. (N.S.) 755. The jurisdiction of the Chancery Division to direct the application of the property of a person of unsound mind for his maintenance exists only when either money belonging to him is in court, or there is some action or other proceeding, such as an administration action, pending which gives the court control over his property: *Re Grimmett's Trusts* (1887), 56 L. J. Ch. 419. The jurisdiction is not confined to directing the application of the income of the property of the lunatic for his maintenance, but extends to the application of capital for that purpose: *Re Tuer's Will Trusts* (1886), 32 Ch. D. 39; 55 L. J. Ch. 454; 54 L. T. (N.S.) 910; 34 W. R. 751.

Jurisdiction of Palatine Courts.—The like jurisdiction may be exercised by the Court of Chancery of the County Palatine of Lancaster, notwithstanding that the jurisdiction of that court over persons of unsound mind was abolished by section 23 of the Court of Chancery of Lancaster Act, 1850, 13 & 14 Vict. c. 43: *Re Edwards* (1879), 10 Ch. D. 606n.

(f.) To every person with regard to whom the Judge is satisfied by affidavit or otherwise that such person is or has been a criminal lunatic and continues to be insane and in confinement.

So far as regards persons being or having been criminal lunatics and continuing to be insane and in confinement, this sub-section supersedes section 10 (3) of the Criminal Lunatics Act, 1884, 47 & 48 Vict. c. 64. An order will not be made under this section unless it can be shown to be for the benefit of the lunatic, and in the case of a criminal lunatic in an asylum, if there is no reasonable probability of his recovery and release, an order will not be made for the purpose of rendering his property available to pay his debts: *Re Price* (1887), 34 Ch. D. 603; 56 L. J. Ch. 292; 56 L. T. (N.S.) 77; 35 W. R. 340.

Practice.—As to applications with regard to the property of the persons mentioned in this paragraph, see Rules in Lunacy, 1892, Rules 48—55 inclusive, *post*, pp. 644, 645.

(2.) (*In the case of any of the above-mentioned persons not being lunatics so found by inquisition, such of the powers of this Act as are made exercisable by the committee of the estate under order of the Judge shall be exercised by such person in*

such manner and with or without security as the Judge may direct, and any such order may confer upon the person therein named authority to do any specified act, or exercise any specified power, or may confer a general authority to exercise on behalf of the lunatic, until further order, all or any of such powers without further application to the Judge.) Section 116.

This section was repealed by the Lunacy Act, 1908, section 1, *post*.

See also section 27 (4), of the Lunacy Act, 1891, *post*, p. 488, the provisions of this sub-section shall apply to the persons named in sub-section (1) (d), of this section, though not lunatics.

Practice.—As to applications with respect to the property of persons not being lunatics so found, see Rules in Lunacy, 1892, Rules 48—55 inclusive, *post*, pp. 644, 645; and as to property of persons through mental infirmity incapable of managing their affairs, see Rule 56, *post*, p. 645.

(3.) Every person appointed to do any such act or exercise any such power shall be subject to the jurisdiction and authority of the Judge as if such person were the committee of the estate of a lunatic so found by inquisition. [Substitute to be subject to Judge like committee.]

(4.) The powers of this Act relating to management and administration shall be exercisable in the discretion of the Judge for the maintenance or benefit of the lunatic or of him and his family, or where it appears to be expedient in the due course of management of the property of the lunatic. [Principles of management and administration.]

An action against an executor on behalf of a lunatic may be compromised when it is shown that a legacy although not actually paid to a lunatic has been partly set off against her maintenance. *Re Ryan, Ryan v. Ryan*, [1911] W. N. 56.

(5.) Nothing in this Act shall subject a lunatic's property to claims of his creditors further than the same is now subject thereto by due course of law.

The maintenance and comforts of a lunatic may be preferred to the claims of creditors. *Re Pink* (1883), 23 Ch. D. 577; 49 L. T. 418.

In practice it is usual to charge the lunatic's estate in favour of creditors, but an order may be made that the charge shall not be enforceable until recovery or death. See generally as to this: Rules in Lunacy, 1892, Rule 116 *seq.*, *post*, p. 655.

The issue of a summons for a receiver will not prevent a creditor from seizing the property. *Re Clarke*, [1898] 1 Ch. 336; 78 L. T. 275; 46 W. R. 337.

The property must be actually under control of the Lunacy Court to take away the execution creditor's right to seize. *Re Brown*, [1900] 1 Ch. 489; 82 L. T. 83; 48 W. R. 461; [1900] W. N. 37.

Actions, &c., against Lunatics.—As to actions against lunatics, see the

Section 116. Rules of the Supreme Court, 1883, Order 16, Rule 17, and notes in Annual Practice.

NOTE.

A solicitor retained by a client, before the client's lunacy, to defend threatened action, was held to be the agent of the client, with the consequence that subsequent lunacy of the client before action commenced revoked the authority, and a solicitor continuing an action even in ignorance of lunacy of client, impliedly warrants authority and becomes personally liable for costs. *Yonge v. Toynbee*, C. A., [1910] W. N. 5; [1910] 1 K. B. 215. Cf. *Re Armstrong*, [1896], 1 Ch. 536; 74 L. T. 134; 44 W. R. 281. A solicitor believing his client to be of sound mind obtaining an order for him on an *ex parte* application without disclosing the fact that a petition in lunacy was pending against him is not guilty of such professional misconduct as to make him liable to costs.

Where a person appointed to exercise powers of committee of estate of lunatic not so found, retains and employs a solicitor to do necessary work in connection with lunatic's estate, the lunatic and not the person so appointed is the client and the solicitor is entitled to taxed costs out of lunatic's estate. *Re E. G.* (a person of unsound mind). Reported in Solicitors' Journal, vol. 58, 497, May 2, 1914.

Charging Orders on Lunatic's Property.—By section 14 of the Judgments Act, 1838, 1 & 2 Vict. c. 110, it is provided that if any person against whom any judgment shall have been entered up in any of Her Majesty's Superior Courts at Westminster shall have any government stock, funds, or annuities, or any stock or shares of or in any public company in England (whether incorporated or not) standing in his name in his own right, or in the name of any person in trust for him, it shall be lawful for a judge of one of the Superior Courts, on the application of any judgment creditor, to order that such stock, funds, annuities, or shares, or such of them or such part thereof respectively as he shall think fit, shall stand charged with the payment of the amount for which judgment shall have been so recovered, and interest thereon, and such order shall entitle the judgment creditor to all such remedies as he would have been entitled to if such charge had been made in his favour by the judgment debtor; provided that no proceedings shall be taken to have the benefit of such charge, until after the expiration of six calendar months from the date of such order. And by section 1 of the Judgments Act, 1840, 3 & 4 Vict. c. 82, it is declared and enacted that the provisions of the foregoing section shall be deemed and taken to extend to the interest of any judgment debtor, whether in possession, remainder, or reversion, and whether vested or contingent, as well in any such stocks, funds, annuities, or shares as aforesaid, as also in the dividends, interest, or annual produce of any such stock, funds, annuities, or shares; and whenever any such judgment debtor shall have any estate, right, title, or interest, vested or contingent, in possession, remainder, or reversion, in, to, or out of any such stocks, funds, annuities, or shares as aforesaid which are now or hereafter shall be standing in the name of the Accountant-General of the Court of Chancery (*i.e.*, the Paymaster-General, 35 & 36 Vict. c. 44, ss. 4, 6), or in, to, or out of the dividends, interest, or annual produce thereof, in the same way as if the same had been standing in the name of a trustee of such judgment debtor: provided

always that no order of any judge as to any stocks, funds, annuities, or shares standing in the name of the Accountant-General of the Court of Chancery or as to the interest, dividends, or annual produce thereof, shall prevent the Bank of England, or any public company, from permitting any transfer of such stocks, funds, annuities, or shares, or payment of the interest, dividends, and annual produce thereof in such manner as the Court of Chancery (*i.e.*, now the High Court of Justice) may direct, or shall have any greater effect than if such debtor had charged such stocks, funds, annuities, or shares, or payment of the interest, dividends, or annual produce thereof, in favour of the judgment creditor, with the amount of the sum to be mentioned in any such order.

Section 116.

NOTE.

With reference to the foregoing enactments it has been held that the judgment creditor of a lunatic so found is entitled to an unconditional charging order on a specified amount of certain funds standing in the books of the Paymaster-General of the Chancery Division to the credit of the debtor, who was described therein as "a person of unsound mind," such funds being the proceeds of the sale of furniture, the property of the lunatic, under an order of the Lords Justices in Lunacy; and that the judge at chambers to whom the application for the order was made, had no power to limit it to such amount as the Lords Justices sitting in Lunacy might deem applicable to payment of the judgment debt: *Horne v. Pountain* (1889), 23 Q. B. D. 264; 58 L. J. Q. B. 143; 61 L. T. (N.S.) 51; 38 W. R. 240; 54 J. P. 37; *In re Brown*, [1900] 1 Ch. 489. And where the judgment creditors of a lunatic so found had obtained charging orders upon a fund in court in the lunacy, which orders were expressed to be not enforceable until the death of the lunatic, or until further order, on the death of the lunatic intestate and insolvent, it was held that the charging orders were valid, and that the judgment creditors were entitled to be paid before transfer of any part of the fund to the lunatic's administrator: *Re Leavesley* [1891], 2 Ch. 1; 60 L. J. Ch. 385; 64 L. T. 269; 39 W. R. 276.

But the existence of a charging order does not prevent the court from directing payments for the maintenance of the lunatic during his life out of the capital of the funds charged, even though the ultimate effect might be to destroy the creditors' security: *Re Plenderleith*, [1893] 3 Ch. 332; 62 L. J. Ch. 993; 69 L. T. 325; 42 W. R. 224. See also *Re Winkle*, [1894] 2 Ch. 519; 42 W. R. 513; 63 L. J. Ch. 541; 70 L. T. 710. A judgment creditor may enforce a charging order, although obtained subsequently to the lunacy jurisdiction, in a case where a scheme for maintenance has been made by the Master and the charging order is on a surplus fund: *Re Hunt*, C. A., [1900] 2 Ch. 54.

Bankruptcy of Lunatics.—A lunatic cannot commit an act of bankruptcy: *Ex parte Stamp* (1846), 1 De G. 345. But the mere fact that a person who has been adjudicated a bankrupt has become insane is no reason for a stay of proceedings: *Anon* (1807), 13 Ves. 590. In *Ex parte Cahen* (1879), 10 Ch. D. 183; 27 W. R. 387; 39 L. T. (N.S.) 645, it was held that the Court of Bankruptcy could not direct a liquidation petition signed by a next friend on behalf of a lunatic not so found to be filed by the registrar. Leave may, however, be given to the committee of the estate of a lunatic so found to consent to an adjudication in bankruptcy against the lunatic: *Re*

Section 116. *Lee* (1883), 23 Ch. D. 216; 48 L. T. (N.S.) 193; 31 W. R. 802, or in the name of the lunatic to file a declaration of the lunatic's inability to pay his debts, or to present a bankruptcy petition against the lunatic in his own name: *Re James* (1884), 12 Q. B. D. 332; 53 L. J. Q. B. 575; 50 L. T. (N.S.) 471. Where an action has been brought by the committee of a lunatic and subsequently the lunatic becomes a bankrupt, the right of action vests in the trustee in bankruptcy, who cannot, however, be added as a party against his will and if so added he may have the action stayed as against him: *Re Farnham* (No. 1), [1895] 2 Ch. 730. There is no jurisdiction in the Court in Lunacy to order moneys to be paid to its credit, from the trustee in bankruptcy, for the purpose of benefiting the lunatic: *Re Farnham*, No. (2), C. A., [1896] 1 Ch. 836.

NOTE.

Where there is an act of bankruptcy after the recovery of a person not "so found" and a receiver had previously been appointed and not discharged, the court of bankruptcy will still grant a receiving order: *Re Belton*, Div. Ct. 108, L. T. 344; [1913] W. N. 63; 29 T. L. R. 313; 57 S. J. 343.

Power to raise money for certain purposes.

117. (1.) The Judge may order that any property of the lunatic, whether present or future, be sold, charged, mortgaged, dealt with, or disposed of as the Judge thinks most expedient for the purpose of raising or securing, or repaying with or without interest, money which is to be or which has been applied to all or any of the purposes following:—

- (a.) Payment of the lunatic's debts or engagements;
- (b.) Discharge of any incumbrance on his property;
- (c.) Payment of any debt or expenditure incurred for the lunatic's maintenance or otherwise for his benefit;
- (d.) Payment of or provision for the expenses of his future maintenance.

Practice on Orders for Sale or Mortgage.—As to the practice on orders for sale or mortgage, see Rules in Lunacy, 1892, Rules 123 and 124, *post*, pp. 656, 657.

Effect of Orders for Payment of Money.—By section 18 of the Judgments Act, 1838, 1 & 2 Vict. c. 110, all orders of the Lord Chancellor in matters of Lunacy, whereby any sum of money or any costs, charges, or expenses shall be payable to any person, shall have the effect of judgments in the superior courts of common law, and the persons to whom any such moneys or costs, charges or expenses, shall be payable shall be deemed judgment creditors within the meaning of this Act; and all powers hereby given to the judges of the superior courts of common law, with respect to matters depending in the same courts shall and may be exercised by the Lord Chancellor in matters of lunacy; and all remedies hereby given to judgment creditors are in like manner given to persons to whom any moneys, or costs, charges or expenses are by such orders or rules directed to be paid.

Payment of Debts or Engagements.—With regard to the payment of the lunatic's debts or engagements, by the Rules in Lunacy, 1892, Rule 33,

post, the Masters are to make inquiries as to debts, and may make orders as to payments. See notes under section 116 (5), *ante*, p. 263. Section 117.

NOTE.

Where a lunatic, while sane, had given a voluntary promissory note for 50,000*l.*, payable in instalments of 5,000*l.*, and had paid three instalments, the note being given by way of bounty in consequence of the lunatic having by accident come into possession of a large fortune, which was apparently intended by the previous possessor to have gone to the payee of the note, the court directed payment of further instalments by the committee on the ground that they were justified in enabling the committee to perform that which the lunatic whilst of sound mind had intended to do, though not legally bound thereto: *Re Whitaker* (1889), 42 Ch. D. 119; 58 L. J. Ch. 487; 61 L. T. (N.S.) 102; 37 W. R. 673. Upon the same principle allowances have been granted to relatives of the lunatic who are in needy circumstances, and for whom the lunatic had, while sane, expressed an intention of making some provision: *Re Frost* (1870), L. R. 5 Ch. 699; 39 L. J. Ch. 808; 23 L. T. (N.S.) 233; 18 W. R. 986. Even charitable donations and subscriptions out of the lunatic's estate have been allowed: *Re Frost, ubi supra*; *Re Strickland* (1871), L. R. 6 Ch. 226; 24 L. T. (N.S.) 530; 19 W. R. 515.

There is no jurisdiction to authorise the sale of a lunatic's property in consideration of shares in a company: *Re A. B., C. A.*, (1899) W. N. 233.

Discharge of Incumbrances.—With regard to the discharge of incumbrances on the property of the lunatic, sections 14 and 53 of the 42 Geo. 3, c. 116, further enable the committee of a lunatic to contract for the redemption of land tax on behalf of the lunatic, and to sell or mortgage the lands of the lunatic for redeeming the land tax. But before proceeding to a sale or mortgage for this purpose, the sanction and direction of the court should be first obtained: *Re Wade*, 1 H. & T. 202. And under sections 15 and 48 of the Tithe Commutation Act, 1836, 6 & 7 Will. 4, c. 71, the committee is enabled to act on behalf of the lunatic for the commutation of tithes.

Where a lunatic's estate was subject to a mortgage which it was desired to pay off, it was ordered that the mortgage should be paid off without prejudice to the question how the mortgage debt should ultimately be borne, the estates not being reconveyed to the lunatic, but the mortgage kept on foot by transferring it to the committee to be disposed of as the court should direct: *Re Melly* (1883), 53 L. J. Ch. 248; 49 L. T. (N.S.) 429.

Payments for past Maintenance or Benefit.—With regard to the payment of any debt or expenditure incurred for the lunatic's maintenance or otherwise for his benefit, by the Rules in Lunacy, 1892, Rule 31 (*g*), *post*, inquiry is to be made before the Masters, as to the past maintenance of the lunatic.

Where a lunatic was entitled in fee to one moiety of real estate as one of the two co-heiresses of an ancestor who had died intestate, and the estate was liable as assets for payment of simple contract debts of the ancestor which his personal estate was insufficient to pay, the court authorised the committee to concur with the other co-heiress in a mortgage of the entirety to raise the amount of the debt, the mortgage being so framed that the lunatic's moiety could not be made liable for any default of the other part-owner in payment of her moiety of the principal and interest. But the

Section 117. court refused to authorise the committee to enter into any covenant on behalf of the lunatic for payment of principal or interest: *Re Fox* (1886), 33 Ch. D. 37; 55 L. T. (N.S.) 39; 35 W. R. 81.

NOTE.

The court may sanction the sale of lunatic's estate in consideration of a perpetual rent-charge, if for the benefit of the lunatic: *Re Ware*, [1892] 1 Ch. 344; 66 L. T. 389.

The law implies an obligation on the part of a lunatic, though not so found, to pay for necessities supplied to him suitable to his position in life: *Re Rhodes* (1890), 44 Ch. D. 94; 59 L. J. Ch. 298; 62 L. T. (N.S.) 342; 38 W. R. 385.

A claim for the past maintenance of a lunatic is simply a debt of the lunatic: *Re Marman's Trusts* (1878), 8 Ch. D. 256. The court will therefore only direct payment of six years' arrears: *Re Harris* (1880), 49 L. J. Ch. 327. *Re Weaver* (1882), 21 Ch. D. 615; 48 L. T. (N.S.) 93; 31 W. R. 224.

An overdraft allowed by a banker for the maintenance of a lunatic's household, was held to be recoverable as a necessary; but not the interest on the overdraft: *Re Beavan, Davies Banks v. Beavan*, [1912] 1 Ch. 196. See S.C. as to what are "necessaries."

Payments for Future Maintenance.—With regard to the future maintenance of the lunatic by the Rules in Lunacy, 1892, Rule 31 (*h*), inquiry is to be made before the Masters as to the future maintenance of the lunatic. By Rule 116 all orders for the allowance of maintenance take effect only until further order. By Rule 118 the committee is only to be allowed the amount on passing his accounts before the Masters. And by Rule 119, payments of the committee for maintenance must be made out of income in priority to costs. For form of order for maintenance where a judgment creditor has obtained execution, see *Re Winkle*, [1894] 2 Ch. 519; 63 L. J. Ch. 541; 70 L. T. 710; 42 W. R. 513.

It may also be observed that where the estate is more than sufficient for the maintenance of the lunatic himself, allowances have been ordered to be made for the maintenance of his household, if any, and those legally dependent on him, and even for relatives not so dependent if they are otherwise unprovided for, and would probably be entitled to the estate in the event of the death of the lunatic intestate and without nearer kindred.

The mere fact that relatives of the lunatic having no legal claim upon him are in necessitous circumstances is not sufficient to justify the court in granting them allowances out of the estate: *Re Darling* (1888), 39 Ch. D. 208; 57 L. J. Ch. 891; 59 L. T. (N.S.) 761. *Re Evans* (1882), 21 Ch. D. 297; 46 L. T. (N.S.) 785; 30 W. R. 645. If, however, the lunatic has, while sane, expressed some intention of making some provision for them the case is different: *Re Frost* (1870), L. R. 5 Ch. 699; 39 L. J. Ch. 808; 23 L. T. (N.S.) 233; 18 W. R. 986. Where a lunatic was entitled as tenant for life to an estate more than sufficient for his maintenance, an allowance was made out of the surplus income to the tenant in tail in remainder upon the terms of his charging the estate with repayment of the sums received, the Judge in Lunacy consenting as protector of the settlement to his barring the estate tail to let in the charge: *Re Sparrow* (1882), 20 Ch. D. 320; 51 L. J. Ch. 497; 46 L. T. 785; and 30 W. R. 373. *Re Beridge* (1883), 50 L. T. 653.

(2.) In case of a charge or mortgage being made under this Act for the expenses of future maintenance, the Judge may direct the same to be payable, either contingently if the interest charged is a contingent or future one, or upon the happening of the event if the interest is depending on an event which must happen, and either in a gross sum or in annual or other periodical sums, and at such times and in such manner as he thinks expedient. Section 117.
[Charge for future maintenance.]

118. (1.) The Judge may order that the whole or any part of any moneys expended or to be expended under his order for the permanent improvement, security, or advantage of the property of the lunatic, or of any part thereof, shall, with interest, be a charge upon the improved property or any other property of the lunatic, but so that no right of sale or foreclosure during the lifetime of the lunatic be conferred by the charge. Charge for permanent improvements.

Charge upon what Property.—It was held under section 118 of the Lunacy Regulation Act, 1853, that where repairs and improvements to a large amount upon estates of which the lunatic was tenant in tail in possession were found to be expedient, and also repairs and improvements to an estate of which he was owner in fee, the expenses relating to the settled estate ought to be raised by mortgage or charge of that estate, but the expenses relating to the estate of which the lunatic was owner in fee might be paid out of personalty: *Re Gist* (1877), 5 Ch. D. 881; 26 W. R. 222. See now *Re Gist*, [1904] 1 Ch. 398; C. A., [1904] W. N. 26, as to the judge taking into consideration, not only the lunatic's benefit but what is fair as between his personal and real estate. Regard should also be paid to the extent and nature of the estate, specially with respect to distinguishing between repairs and improvements. Where expenses were incurred in respect of lands of which the lunatic was tenant for life, and also in respect of lands of which he was tenant in tail, it was held that the court had no jurisdiction to charge the land of which he was tenant in tail with the expenditure incurred on the estate of which he was tenant for life: *Re Vavasour* (1885), 29 Ch. D. 306; 53 L. T. (N.S.) 412. (See now *Re Gist*, *supra*.)

It will be observed that in the present sub-section power is given to charge the improved property or any other property of the lunatic.

Carrying out Order.—As to carrying the order into effect, see section 124, *post*, p. 277.

(2.) The interest shall be kept down during the lunatic's lifetime, out of the income of his general estate, as far as the same is sufficient to bear it. [Interest payable out of general income.]

In a case where an estate had been purchased out of the profits of another estate, under an order in lunacy, and the order declared that the profits so applied should "form a lien on the purchased estate in trust for the lunatic, his executors and administrators" with no mention of interest,

Section 118. see *Re Drax*, [1903] 1 Ch. 781; C. A., [1903] W. N. 66, as to effect of charge as between lunatic's successors in title.

NOTE.

[To whom charge given.] (3.) The charge may be made either to some person advancing the money, or if the money is paid out of the lunatic's general estate, to some person as a trustee for him, as part of his personal estate.

Power to dissolve partnership.

119. Where a person being a member of a partnership becomes lunatic the Judge may, by order, dissolve the partnership.

Partnership Law as to Lunacy.—The lunacy of a partner does not of itself dissolve the firm, but it does not on the other hand prevent a dissolution on any of the grounds provided by the articles. By section 35 (a.) of the Partnership Act, 1890, 53 & 54 Vict. c. 90, every court and judge having jurisdiction in the case may decree a dissolution of partnership where a partner is found lunatic by inquisition, or is shown to the satisfaction of the court or judge to be of permanently unsound mind, in either of which cases the application may be made as well on behalf of that partner by his committee or next friend as by any other partner. Costs of the dissolution are ordered to be paid out of the partnership assets: *Jones v. Welsh* (1855), 1 K. & J. 765.

See also Limited Partnership Act, 1907, 7 Edw. 7, c. 24, section 6 (2), which provides that "a limited partnership shall not be dissolved by the death or bankruptcy of a limited partner, and the lunacy of a limited partner shall not be a ground for dissolution of the partnership by the court unless the lunatic's share cannot be otherwise ascertained and realised."

Powers exercisable by committee under order of judge.

120. The Judge may, by order, authorise and direct the committee of the estate of a lunatic to do all or any of the following things:—

(a.) Sell any property belonging to the lunatic;

Cases under Previous Statute.—It has been held under section 124 of the Lunacy Regulation Act, 1853, 16 & 17 Vict. c. 70, that there was jurisdiction under that section to confirm sales made without the sanction of the court and even before the lunatic had been so found: *Re Mary Smith* (1875), L. R. 10 Ch. 79; 23 W. R. 297.

It has also been held that under the same section there was no jurisdiction to order a sale of the lunatic's undivided share of land to the owner or owners of other undivided shares: *Re Weld* (1885), 28 Ch. D. 514; 52 L. T. (N.S.) 703; 33 W. R. 845; but see now under present Act note below.

It has been held under section 125 of the Lunacy Regulation Act, 1853, 16 & 17 Vict. c. 70, that that section could not be extended to land of which the lunatic was merely tenant for life: *Re Corbett* (1866), L. R. 1 Ch. 516; 35 L. J. Ch. 793; 14 L. T. (N.S.) 748. It has also been held that where the lunatic was seised in fee simple of lands on which there was a house which was burnt down, the land could not be ordered to be sold under that section to a person intending to build thereon: *Re Tomkins* (1889), 60 L. T. (N.S.) 402.

Cases under Present Act.—Under section 117 and this section the judge

in lunacy has power to sanction a sale of real estate in consideration of a perpetual rent-charge for the purpose of providing for the future maintenance of the lunatic: *Re Ware*, [1891] 1 Ch. 344; 61 L. J. Ch. 279; 66 L. T. 389. Section 120.

NOTE.

A lunatic was entitled to a life interest in property over which she had a power of appointment to her children, and the interest was insufficient for her support; upon an application to resort to capital being made by her son, the court, though unable to release the power, granted the order without prejudice to any question which might arise if the lunatic appointed: *Re Hirst*, C. A. (1892), W. N. 177.

Practice on Orders for Sale.—As to the practice on orders for sale, see Rules in Lunacy, 1892, Rule 124, *post*, p. 657.^s

Sale by Lunatic Limited Owner.—As to the exercise by the receiver of the powers of sale of a limited owner, being a lunatic so found, it is provided by section 62 of the Settled Land Act, 1882, 45 & 46 Vict. c. 38, that where a tenant for life or person having the powers of a tenant for life under those Acts is a lunatic so found, the committee of his estate may, in his name and on his behalf, under an order of the Lord Chancellor, or other person entrusted by virtue of the Queen's Sign Manual with the care and commitment of the custody of the persons and estates of lunatics, exercise the powers of a tenant for life under that Act; and the order may be made on the petition of any person interested in the settled land, or of the committee of the estate. As to the application for the order, see Rules in Lunacy, 1892, Rule 20, *post*, p. 639.

Under this section the court authorised the committee of the estate to take proceedings under the Act for the purpose of selling the undivided shares of a lunatic tenant in tail to the co-owner of the estate: *Re Gaitskell*, [1889] 40 Ch. D. 416; 58 L. J. Ch. 262. By the Lunacy Act, 1908, *post*, this power is extended to a receiver, and when ordered, can be exercised by him.

In the case of a lunatic tenant for life, notice under section 45 of the Settled Land Act, 1882, must be served on the trustees, and if necessary new trustees appointed for the purposes of the Act, as in other cases: *Re Taylor* (1883), 52 L. J. Ch. 728; 49 L. T. (N.S.) 420; 31 W. R. 596.

An order in lunacy is necessary to enable the committee to give the notice required by section 45: *Re Ray's Settled Estates* (1884), 25 Ch. D. 464; 53 L. J. Ch. 205; 50 L. T. (N.S.) 80; 32 W. R. 458.

Section 49 of the Settled Estates Act, 1877, 40 & 41 Vict. c. 18, enacts that (amongst other things) all powers given by this Act and all applications to the court under this Act, and consents to and notifications respecting such applications may be executed, made or given by, and all notices under this Act may be given to committees on behalf of lunatics, provided nevertheless that in the cases of lunatic tenants in tail no application to the court or consent to or notification respecting any application may be made or given by any committee without the special direction of the court.

As to cases in which recourse to the Settled Estates Act, 1877, may still be necessary, see Dart's "Vendors and Purchasers," 6th edition, p. 1295. As to the application for an order under this Act, see Rules in Lunacy, 1892, Rule 20, *post*, p. 639.

Section 120. *Sale under Lands Clauses Acts.*—Section 7 of the Lands Clauses Consolidation Act, 1845, 8 & 9 Vict. c. 18 (amongst other things), enables the committees of lunatics so found to sell and convey land to a company or public body authorised to take it. A receiver can act where no committee has been appointed. The sanction of the Judge in Lunacy ought in all cases to be obtained by the committee of a lunatic to a contract for the sale of any portion of the lunatic's land under this enactment: *Re Taylor*, 1 H. & T. 432; 1 Mac. & G. 210. As to the application for the order, see Rules in Lunacy, 1892, Rule 20, *post*. Purchase or compensation money should be paid at once to the credit of the lunacy and invested on the joint account of the lunatic and the purchasers: *Re Milnes* (1875), 1 Ch. D. 28; 34 L. T. (N.S.) 46. But if the investment is equivalent to a re-investment in land the name of the purchasers may be directed to be omitted from the title of the account: *Re Buckingham* (1876), 2 Ch. D. 690. As to the payment of dividends on investments representing the purchase money paid into court to the committee, see *Re Ryder* (1887), 37 Ch. D. 595; 57 L. J. Ch. 495; 58 L. T. (N.S.) 783.

NOTE.

Where lands subject to a life rent-charge in favour of a lunatic were taken by a corporation under the Lands Clauses Acts, the court authorised the committee to release the lands from the rent-charge upon the corporation purchasing in the name of the lunatic a Government annuity of the same yearly value for his life: *Re Brewer* (1875), 1 Ch. D. 409; 34 L. T. (N.S.) 466.

- (b.) Make exchange or partition of any property belonging to the lunatic or in which he is interested, and give or receive any money for equality of exchange or partition;

It has been held that under section 124 of the Lunacy Regulation Act, 1853, 16 & 17 Vict. c. 70, the court had power to authorise an exchange of lands belonging to a lunatic without the minerals under the same: *Re Dicconson* (1880), 15 Ch. D. 316; 29 W. R. 222.

Exchange and Partition by Lunatic Limited Owners.—The powers of exchange and partition conferred in cases of limited ownership by the Settled Land Act, 1882, 45 & 46 Vict. c. 38, where the limited owner is a lunatic so found, are exercisable by the committee under an order in lunacy and now also (by order) by the receiver—Lunacy Act, 1908. See section 62 of the Settled Land Act, 1882, cited in the notes to the preceding clause of this section, *ante*, p. 271.

Where a lunatic was tenant in tail of an undivided share of an estate, and an action was brought under section 6 of the Partition Act, 1876, 39 & 40 Vict. c. 17, the committee was authorised to request a sale and join in the conveyance to the purchasers, but the proceeds of the sale were directed to be subject to the same uses as the estate: *Re Pares* (1879), 12 Ch. D. 333; 41 L. T. 574; 28 W. R. 193.

- (c.) Carry on any trade or business of the lunatic:

A committee or receiver appointed under this Act, is the agent of a lunatic and is not personally liable for contracts unless intended to

personally pledge his credit: *Plumpton v. Burkinshaw*, C. A., [1908] Section 120. 2 K. B. 572.

NOTE.

- (d.) Grant leases of any property of the lunatic for building, agricultural, or other purposes ;

A lease expressed to be made between a lunatic as lessor, by A. B. and C. D., the committees of his estate, of the one part, and the lessee of the other part, is well executed on behalf of the lunatic, though the clause of witness run: "In witness whereof the said parties to these presents have hereunto set their hands and seals the day and year first above written," followed by the separate seals and signatures of the committees as if on their own behalf and witnessed in the ordinary form without any express mention of the fact that the execution is on behalf of the lunatic: *Lawrie v. Lees* (1881), 7 App. Cas. 19; 51 L. J. Ch. 239; 46 L. T. (N.S.) 210; 30 W. R. 185.

It has been held that section 129 of the Lunacy Regulation Act, 1853, 16 & 17 Vict. c. 70, gave the court jurisdiction to order the committee to grant a lease in conformity with an arrangement to grant a lease which had been entered into by the committee without the sanction of the court, the intending tenant having been let into possession and having spent a considerable sum in repairs and improvements: *Re Wynne* (1871), L. R. 7 Ch. 229; 26 L. T. (N.S.) 406; 20 W. R. 348.

The grant of an easement of carrying water pipes under land belonging to a lunatic for a term of years cannot be authorised under this clause: *Re Arnott* (1891), 35 Sol. Journ. 623.

- (e.) Grant leases of minerals forming part of the lunatic's property whether the same have been already worked or not, and either with or without the surface or other land ;

Mines may be worked by the committee under the direction of the court, independently of any statute: *Ex parte Tabbart* (1801), 6 Ves. 428.

- (f.) Surrender any lease and accept a new lease ;

A committee cannot renew for his own benefit: *Ex parte Phelps* (1742), 9 Mod. 357.

- (g.) Accept a surrender of any lease and grant a new lease ;

As to settlement of the new lease, see Rules in Lunacy, 1893, Rule 10, *post*, p. 669.

- (h.) Execute any power of leasing vested in a lunatic having a limited estate only in the property over which the power extends ;

Other Statutory Powers.—See also sections 6—12 inclusive, and section 62 of the Settled Land Act, 1882, 45 & 46 Vict. c. 38, and section 49 of the Settled Estates Act, 1877, 40 & 41 Vict. c. 18, referred to in the notes to clause (a) of this section, *ante*, p. 271.

Section 120. A receiver can, by leave, exercise the power of leasing vested in the lunatic as tenant for life under the Settled Land Act, 1882: *Re Salt*, [1896] 1 Ch. 117, distinguishing *Re Baggs*, [1894] 2 Ch. 416.

NOTE.

- (i.) Perform any contract relating to the property of the lunatic entered into by the lunatic before his lunacy ;

This general power appears to include the power of decreeing specific performance of a contract to convey land, entered into by a lunatic so found before his lunacy, which is in accordance with the principle of *Affleck v. Affleck*, 3 Sm. & G. 394, in which it was held that a covenant by a person at the time of making it of sound mind must prevail against his subsequent mental incapacity.

- (j.) Surrender, assign, or otherwise dispose of with or without consideration any onerous property belonging to the lunatic ;

- (k.) Enter into any agreement touching the patronage of augmented cures under the Act one George the First, chapter ten, which the lunatic might have entered into if he had been of sound mind ;

This clause is a consolidated re-enactment of section 128 of the Lunacy Regulation Act, 1853, 16 & 17 Vict. c. 70.

The statute 1 Geo. 1, stat. 2, c. 10, is intitled " An Act for making more effectual Her late Majesty's Gracious Intention for augmenting the Maintenance of the Poor Clergy," and by section 9 of that Act it was enacted that the agreements of guardians for and on behalf of infants or idiots under their guardianship shall be as good as if the said infants or idiots had been of full age and of sound mind, and had themselves entered into such agreements. This enactment was repealed by section 25 of the 11 Geo. 4 & 1 Will. 4, c. 65, and by section 26 of that Act provision was made for extending the same powers to the committees of the estates of lunatics so found. So much, however, of the 11 Geo. 4 & 1 Will. 4, c. 65, as related to or affected idiots, lunatics, and persons of unsound mind, or their property, except so far as it relates to Ireland, but excluding from this exception section 41, was repealed by section 1 and schedule I. of the Lunacy Regulation Act, 1853, 16 & 17 Vict. c. 70.

- (l.) Exercise any power or give any consent required for the exercise of any power where the power is vested in the lunatic for his own benefit or the power of consent is in the nature of a beneficial interest in the lunatic.

See *Re Earl of Sefton*, C. A., [1898] 2 Ch. 378, quoted under section 124, *post*.

Where a lunatic is mortgagee with a power of sale the committee cannot be authorised by one order not only to sell but also to convey the estate to the purchaser. In such case the practice is merely to direct the committee to sell, and when the sale has been effected he can then apply

for a vesting order under section 3 of the Trustee Act, 1850, 13 & 14 Vict. c. 60 (see section 135, *post*): *Re Harwood* (1887), 35 Ch. D. 470; 56 L. J. Ch. 974; 56 L. T. (N.S.) 502; 36 W. R. 27. Section 120.

NOTE.

In the case of a lunatic, whose estate included an estate tail general in possession, under a will, in an undivided third part or share of certain hereditaments, the committee under order may bar the entail: *Re E. D. S.*, C. A., [1914] W. N. 85; 58 S. J. 338.

As to liability of lunatic's estate for costs in a case where instructions had been given to exercise powers of committee, see *Re E. G.* Reported in Solicitors Journal, 1914, vol. 53, p. 497.

Non-beneficial Powers.—As to the exercise of powers vested in the lunatic in the character of a trustee or guardian, and for appointment of new trustees, see sections 128, 129, *post*, pp. 280, 282.

121. Any property taken in exchange and any renewed lease accepted on behalf of a lunatic under the powers of this Act shall be to the same uses and be subject to the same trusts, charges, incumbrances, dispositions, devises, and conditions as the property given in exchange or the surrendered lease was or would but for the exchange or surrender have been subject to. Property exchanged and renewed lease to be to same uses as before.

122. (1.) The power to authorise leases of a lunatic's property under this Act shall extend to property of which the lunatic is tenant in tail, and every lease granted pursuant to any order under this Act shall bind the issue of the lunatic and all persons entitled in remainder and reversion expectant upon the estate tail of the lunatic including the Crown, and every person to whom from time to time the reversion expectant upon the lease belongs upon the death of the lunatic shall have the same rights and remedies against the lessee, his executors, administrators, and assigns, as the lunatic or his committee would have had. Extent of leasing power.

(2.) Leases authorised to be granted and accepted by or on behalf of a lunatic under this Act may be for such number of lives or such term of years, at such rent and royalties, and subject to such reservations, covenants, and conditions as the Judge approves. [Contents of lease.]

(3.) Fines or other payments on the renewal of leases may be paid out of the lunatic's estate, or charged with interest on the leasehold property. [Payments out of estate.]

123. (1.) The lunatic, his heirs, executors, administrators, next-of-kin, devisees, legatees, and assigns, shall have the same interest in any moneys arising from any sale, mortgage, or other disposition, under the powers of this Act, which may not have been applied under such powers, as he or they would have had. Lunatic's interest in property not to be altered.

Section 123. in the property the subject of the sale, mortgage, or disposition, if no sale, mortgage, or disposition had been made, and the surplus moneys shall be of the same nature as the property sold, mortgaged, or disposed of.

The old law (section 119 of the Lunacy Regulation Act, 1853) applied only to moneys raised by sale, mortgage, charge, or other disposition of *land*, and was consequently held not to apply to moneys arising from sales, &c., of other property, as in *Jones v. Green* (1868), L. R. 5 Eq. 555; 16 W. R. 203; *Re Freer* (1882), 22 Ch. D. 622; 52 L. J. Ch. 301; 31 W. R. 426. The words of the present sub-section do not expressly confine its application to moneys arising from sales, &c., of land only. See the definition of "property" in section 341, *post*, p. 452.

It may be here observed that upon the sale or mortgage of real estate for payment of debts under sections 11 and 12 of the Debts Recovery Act, 1830, 11 Geo. 4, & 1 Will. 4, c. 47, and section 1 of the Debts Recovery Act, 1839, 2 & 3 Vict. c. 60, by section 2 of the last-mentioned Act, the surplus of money arising from such sale or mortgage is to descend in the same manner as the estates so sold or mortgaged would have done.

A trust of surplus proceeds of sale provided that they should be paid to the mortgagor "his heirs or assigns." The property so mortgaged was sold and there was a large surplus. Subsequent to the mortgage but before the sale the mortgagor became a lunatic and continued so until his death. He died intestate. Held:—That the surplus proceeds of sale must be treated as personalty notwithstanding the language of the trust: *Re Grange* (*Chadwick v. Grange*), C. A., [1907] W. N. 125; [1907] 2 Ch. 20.

[Conversion
of moneys.]

(2.) Moneys received for equality of partition and exchange, or under any lease of unopened mines, and all fines, premiums, and sums or (*sic*) money received upon the grant or renewal of a lease, where the property the subject of the partition, exchange, or lease was real estate of the lunatic, shall, subject to the application thereof for any purposes authorised by this Act, as between the representatives of the real and personal estate of the lunatic, be considered as real estate, except in the case of fines, premiums, and sums of money received upon the grant or renewal of leases of property of which the lunatic was tenant for life, in which case the fines, premiums, and sums of money shall be personal estate of the lunatic.

If a committee completes a contract, originally entered into by a lunatic before being "so found" for the purchase of land with the sanction of the court, the estate descends as realty, as the direction to the committee to complete the purchase amounted to an election by the lunacy authorities to adopt a contract which had been entered into by a lunatic and therefore only voidable and consequently that a conversion had been effected: *Baldwin v. Smith*, [1900] W. N. 58; [1900] 1 Ch. 588.

In a case where both the tenant for life impeachable for waste and the tenant in fee in remainder, were lunatic, under an order made in Chancery and in Lunacy, timber was cut and sold, it was held that the proceeds of timber were, subject to the life interest, personal estate of the tenant in fee: *Hartley v. Pendarves*, [1901] W. N. 158; [1901] 2 Ch. 498. Section 123.
NOTE.

(3.) In order to give effect to this section the Judge may direct any money to be carried to a separate account, and may order such assurances and things to be executed and done as he thinks expedient. [Accounts
and assur-
ances.]

Where under an order in a partition suit, a share of real estate belonging to a lunatic was sold, and the proceeds paid into court to the credit of the matter in lunacy generally, but not carried to a real estate account, it was held that the rights of the several parties on the death of the lunatic intestate, were not altered by the omission; the object of carrying over to such an account merely being to call the attention of the court, when the money is paid out, to the fact that it is the proceeds of real estate: *Re Barker* (1881), 17 Ch. D. 241; 50 L. J. Ch. 334; 44 L. T. 33; 29 W. R. 873.

For further cases on intestacy of lunatic, see *Re Matson* (*James v. Dickinson*), [1897] 2 Ch. 509, and cases to previous sub-sections.

124. The committee of the estate, or such person as the Judge approves, shall in the name and on behalf of the lunatic execute and do all such assurances and things for giving effect to any order under this Act as the Judge directs, and every such assurance and thing shall be valid and effectual, and shall take effect accordingly, subject only to any prior charge to which the property affected thereby at the date of the order is subject. Power to
carry orders
into effect.

This section removes any doubt as to the jurisdiction of the court in lunacy to order subsidiary acts to be done in the course of exercising its statutory jurisdiction. A lunatic had land devised to him with remainder to his issue, upon condition that he resettled other land that he owned within a certain period to the uses of the devised estate. It was held that although the statutory powers conferred by the Lunacy Act, 1890, did not in terms give authority to the court to give directions to the committee to elect for the lunatic in such a case, there was nevertheless power in the court in lunacy under its general jurisdiction to give such authority to the committee, even although in the case in question the resettlement would cut down the interest of the lunatic, in that part of his estate which he was required to resettle, in order to gain the benefit of the devised land: *Re Earl of Sefton*, C. A., [1898] 2 Ch. 378. See also *Re Ray*, C. A., [1896] 1 Ch. 468.

125. Where a lunatic so found by inquisition is entitled to be admitted tenant of copyhold land, the committee of his estate may appear at one of the three next courts holden for the manor Admittance
to copyhold.

Section 125. (for the holding whereof the usual notice shall be given), and there offer himself to be admitted tenant in the name and on behalf of the lunatic; and in default of his appearance, or of his acceptance of admittance, the lord or his steward may, after three courts duly holden, and proclamations thereat regularly made, at any subsequent court appoint any fit person to be attorney for the lunatic for that purpose only, and by that attorney admit the lunatic tenant of the land, according to such estate as the lunatic is legally entitled to therein.

Enfranchisement.—It is provided by section 45 of the Copyhold Act, 1894, 57 & 58 Vict. c. 46 (amongst other things), that when a lord, tenant, or any person interested in an enfranchisement, redemption, or sale, or otherwise under that Act is a lunatic, anything by that Act required or authorised to be done by or in respect of him shall be done on his behalf, if there is a committee of his estate, by the committee, and in every other case by some fit person appointed by the Board of Agriculture to represent him for the purposes of the Act.

When the court sanctions proceedings for the enfranchisement of copyholds belonging to a lunatic, as to which the rules of descent differ from the rules of descent of freeholds, a declaration will be made which will, on the death of the lunatic intestate, carry the equitable estate in the enfranchised copyhold to the persons who would have taken it had it not been enfranchised: *Re Ryder* (1882), 20 Ch. D. 514; 30 W. R. 417.

Fines upon
admittance.

126. (1.) The lord or his steward may upon the admittance impose such fine as might have been imposed if the lunatic had been of sound mind, which fine may be demanded by the lord's bailiff or agent, by a note in writing signed by the lord or his steward, to be left with the committee of the estate, or with the tenant or occupier of the land.

[Lord's right
of entry.]

(2.) If the fine is not paid or tendered to the lord or his steward within three months after demand, then the lord may enter upon and hold the land, and receive the rents and profits thereof (but without liberty to fell any timber standing thereon), until he is thereby fully paid the fine, with his reasonable costs and charges of raising the same, and of obtaining the possession of the land, although the lunatic die before the fine and costs and charges have been raised.

[Lord's
account of
rents and
profits.]

(3.) The lord shall yearly, on demand by the person entitled to the surplus rents and profits, after payment of the fine and costs and charges, or by the person then entitled to the land, render an account of the rents and profits received by him or on his behalf, and shall pay the surplus, if any, to the person entitled thereto.

(4.) As soon as the fine and costs and charges have been fully paid, or, if after the lord's entry, the fine and costs and charges are lawfully tendered to him, then the lunatic, by the committee of his estate or other the person entitled, may enter upon and hold the land, according to his estate or interest therein; and the lord shall deliver possession thereof accordingly, and if he refuse so to do he shall make satisfaction to the person kept out of possession for all the damages which he thereby sustains, and all his costs and charges of recovering possession. Section 126.
[Lunatic's
right of
re-entry.]

(5.) If the committee pays the fine and costs and charges, then he, his executors and administrators, may enter upon and hold the land, and receive the rents and profits thereof until payment thereof of the amount disbursed upon that account, although the lunatic die before reimbursement. [Committee's
right of
entry.]

(6.) If the fine imposed is not warranted by the custom of the manor, or is unlawful, the lunatic may controvert its legality, as if this Act had not been passed; and no lunatic so found by inquisition shall forfeit any land for his neglect or refusal to appear at any court, or to be admitted thereto, or to pay the fine imposed upon his admittance. [Fines not
to be illegal.
No forfei-
ture.]

127. (1.) Where it appears to the Judge that there is reason to believe that the unsoundness of mind of any lunatic so found by inquisition is in its nature temporary, and will probably be soon removed, and that it is expedient that temporary provision should be made for the maintenance of the lunatic, or of the lunatic and the members of his immediate family who are dependent upon him for maintenance, and that any sum of money arising from or being in the nature of income or of ready money belonging to the lunatic, and standing to his account with a banker or agent, or being in the hands of any person for his use, is readily available and may be safely and properly applied in that behalf, the Judge may allow thereout such amount as he thinks proper for the temporary maintenance of the lunatic, or of the lunatic and the members of his immediate family who are dependent upon him for maintenance, and may, instead of proceeding to order a grant of the custody of the estate, order or give liberty for the payment of any such sum of money as aforesaid, or any part thereof, to such person as, under the circumstances of the case, he thinks proper to intrust with the application thereof, and may direct the same to be paid to such person accordingly, and when received to be Where lunacy
temporary
money may
be applied
for temporary
maintenance.

Section 127. applied, and the same shall accordingly be applied, in or towards such temporary maintenance as aforesaid.

[Receipts for temporary allowance.]

(2.) The receipt in writing of the person to whom payment is to be made for any moneys payable to him by virtue of an order under this section shall be a good discharge, and every person is hereby directed to act upon and obey every such order.

[Accounts of temporary allowance.]

(3.) The person receiving any money by virtue of an order under this section shall pass an account thereof before the Masters, when required.

Committee may exercise power vested in lunatic in character of trustee or guardian.

128. Where a power is vested in a lunatic in the character of trustee or guardian, or the consent of a lunatic to the exercise of a power is necessary in the like character, or as a check upon the undue exercise of the power, and it appears to the Judge to be expedient that the power should be exercised or the consent given, the committee of the estate, in the name and on behalf of the lunatic, under an order of the Judge, made upon the application of any person interested, may exercise the power or give the consent in such manner as the order directs.

Sections 135 and 136 of this Act (*post*) confer on the Judge in Lunacy the power to make vesting orders and section 141 provides that in every case where the Judge in Lunacy has jurisdiction to make a vesting order, he may also make an order appointing a new trustee or new trustees, and under those sections it was held that where a vesting order and the appointment of new trustees were required, the application was properly made to the lunacy jurisdiction. By the Lunacy Act, 1911, s. 1, *post*, however, the powers of the Judge in Lunacy to make vesting orders, except so far as such orders relate to lunatic mortgagees, not being also trustees, are transferred to, and (subject to the Rules of the Supreme Court) are exercisable by the High Court.

At common-law, any power vested in a lunatic, whether coupled with an interest or being a bare authority, remains suspended during the continuance of his disability: *Mansell v. Mansell*, Wilmot, 51; and, independently of any provision in the instrument or statute creating the power authorising his committee to exercise it on his behalf, the court cannot sanction its exercise by the committee: *Ex parte Bradford*, West. Cas. t. Hardw. 133; *Ex parte Smyth* (1818), 2 Sw. 393.

Where a marriage settlement contained a power of advancement exercisable by the trustees after the death of the husband and wife, or at any time previously if they or the survivor of them should so direct, and the husband was found lunatic, it was held that the court had jurisdiction, under section 137 of the Lunacy Regulation Act, 1853, to authorise the committee of the estate to consent, on behalf of the lunatic, to the exercise of the power: *Re Nevill* (1885), 31 Ch. D. 161; 55 L. J. Ch. 435; 54 L. T. (N.S.) 290. So also, where a will contained a power of appointment of new trustees exercisable with the consent of the tenant for life, and the

trustees were dead and the tenant for life had been found lunatic, it was held that the committee might be authorised to consent on behalf of the lunatic, but held also that there was no jurisdiction in lunacy to appoint new trustees: *Re Garrod* (1885), 31 Ch. D. 164; 55 L. J. Ch. 311; 54 L. T. (N.S.) 291; 34 W. R. 157. Section 128.
NOTE.

Where a lunatic so found was one of three trustees of a will under which she was entitled to a beneficial interest, and the will contained a declaration that the power of appointing new trustees conferred by the 23 & 24 Vict. c. 145, s. 27, should be vested in the person so afterwards found lunatic, during her life and widowhood and after her decease or second marriage, as the Act directs, provided that the number of trustees was not reduced below three, the court held that although the appointment of a new trustee could be made under section 31 of the Conveyancing Act, 1881, 44 & 45 Vict. c. 41, under the circumstances it was better that an application should be made to authorise the committee to consent under section 137 of the Lunacy Regulation Act, 1853: *Re Blake*, W. N. (1887), p. 173.

Where a person proved to the satisfaction of the judge in lunacy to be incapable of managing his own affairs within the meaning of sub-section 1 (d) of section 116, *ante*, was tenant for life of settled estates with power of sale subject to consent of trustees, it was held that the court had power with consent of the trustees to authorise a sale: *Re X*——, [1894] 2 Ch. 415; 63 L. J. Ch. 613; 42 W. R. 657.

Practice.—As to the mode of application for an order authorising the committee to exercise a power or consent to the exercise of power, see Rules in Lunacy, 1892, Rules 19 and 21, *post*; *Re Nevill*, *ubi supra*. But if a vesting order is also asked for, see Rule dated 29th Oct., 1900, *post*, p. 670.

A petition for the appointment of new trustees in the place of trustees of whom one has died and the other is a lunatic so found, and for the right to transfer a sum of stock is properly presented in lunacy only: *Re Rolls Hoare*, W. N. (1888), p. 94.

As to the form of order, see *Re Bowmer* (1859), 3 De G. & J. 658; 28 L. J. Ch. 618; 33 L. T. 4; 7 W. R. 313; 5 Jur. (N.S.) 348.

High Court Jurisdiction for Appointment of new Trustees.—The jurisdiction of the High Court to appoint new trustees under section 32 of the Trustee Act, 1850, 13 & 14 Vict. c. 60 (see now section 25 of the Trustee Act, 1893, 56 & 57 Vict. c. 53), is not ousted by the foregoing section: *Re Sparrow's Trusts*, 18 W. R. 1185. But no appointment will be made under that jurisdiction in the case of a lunatic so found unless the committee is first served: *Re Parke's Trusts*, 8 L. T. (N.S.) 378; 9 Jur. (N.S.) 998; *Re Parker's Trusts* (1863), 32 Beav. 580; 11 W. R. 655.

The Judge in Lunacy has jurisdiction to authorise receiver to concur on behalf of a lunatic in exercising a joint power of appointment, as being a power vested in the lunatic "in the character of trustee": *Re A*, C. A. [1904] W. N. 151; [1904] 2 Ch. 328.

When a Master appoints a person to exercise a power of appointing new trustees vested in a lunatic, he has jurisdiction under section 129 to make an order vesting the trust property in the newly appointed trustees: *Re Fuller*, [1900] 2 Ch. 551.

Section 128. *Lunatic Protector of Settlement.*—As to cases where a person, protector of a settlement, is a lunatic, whether so found or not, see sections 33 and 48 of the Fines and Recoveries Act, 1833, 3 & 4 Will. 4, c. 74, providing that the Lord Chancellor or Lords Justices shall be the protector, and shall have power to consent to a disposition by a tenant in tail. As to when such consent will be given, see *Re Tharp* (1876), 3 Ch. D. 59; 35 L. T. (N.S.) 293; *Re Blewitt* (1856), 6 De G. M. & G. 187; 25 L. J. Ch. 393; 2 Jur. (N.S.) 217; *Re Graydon* (1849), 1 Mac. & G. 655; 2 H. & T. 182; 14 Jur. 211; *Re Sparrow* (1882), 20 Ch. D. 320; 51 L. J. Ch. 497; 46 L. T. 785; 30 W. R. 373.

129. Where under this Act the committee of the estate, under order of the Judge, exercises, in the name and on behalf of the lunatic, a power of appointing new trustees vested in the lunatic, the person or persons who shall, after and in consequence of the exercise of the power, be the trustee or trustees, shall have all the same rights and powers as he or they would have had if the order had been made by the High Court; and the Judge may in any such case, where it seems to him to be for the lunatic's benefit and also expedient, make any order respecting the property subject to the trust which might have been made in the same case under the Trustee Act, 1850, or any Act amending the same, on the appointment thereunder of a new trustee or new trustees.

Trustee Acts.—The Trustee Act, 1850, is the 13 & 14 Vict. c. 60. It was amended by the 15 & 16 Vict. c. 55, and the 15 & 16 Vict. c. 87, s. 15. See now the Trustee Act, 1893, 56 & 57 Vict. c. 53, Part III., ss. 25—46.

130. In any case where, pending the appointment of committees, it appears to the Masters desirable that temporary provision should be made for the expenses of the maintenance or other necessary purposes or requirements of the lunatic, or any member of his family, out of any cash or available securities belonging to him in the hands of his bankers, or of any other person, the Masters shall be at liberty by certificate to authorise such banker or other person to pay to the person to be named in such certificate such sum as they certify to be proper; and may by such certificate give any directions as to the proper application thereof for the lunatic's benefit by that person, who shall be accountable for the same as the Masters direct.

Time for Considering Maintenance.—The usual time for settling the allowance for maintenance is after the appointment of a receiver, see Rules in Lunacy, 1892, Rule 31, *post*, p. 640. But this section provides for a

temporary allowance being made on that account, pending the appointment of committees. The allowance for maintenance may be revised at any time. Section 130.
NOTE.

Temporary Lunacy.—As to temporary provision for maintenance where it appears that the lunacy is in its nature temporary, see section 127, *ante*, p. 279.

Powers as to Property in England, Scotland, and Ireland.

131. (1.) The powers of management and administration of the estates of lunatics conferred by this Act shall, without an inquisition or other proceedings in Ireland, extend to the personal property in Ireland of a lunatic so found by inquisition in England where such personal property does not exceed two thousand pounds in value or the income thereof does not exceed one hundred pounds a year; and the like powers conferred by the Lunacy Regulation (Ireland) Act, 1871, shall, without an inquisition or other proceedings in England, extend to the personal property in England of a lunatic so found by inquisition in Ireland where such personal property or the income thereof does not exceed such amount as aforesaid. Power to deal with property in England, Scotland, and Ireland.

In cases where the property to be dealt with exceeds the value specified in this sub-section, a transcript of the record must be transmitted under section 107, *ante*, p. 249.

(2.) Where a person has been found lunatic by inquisition in England or Ireland, and has personal property in Scotland, the committee of the estate of the lunatic shall, without cognition or other proceedings in Scotland, have all the same powers as to such property, or the income thereof, as might be exercised by a tutor at law after cognition or a duly appointed *curator bonis* to a person of unsound mind in Scotland. [Property in Scotland of lunatic so found in England or Ireland.]

A *curator bonis* may be appointed in Scotland on account of imbecility from age and in other cases to which a cognition is not applicable. A cognition corresponds to an inquisition, and a tutor at law to a committee. As to the powers of a tutor at law after cognition or a duly appointed *curator bonis*, see the Lunacy (Scotland) Acts, 1857 to 1887.

As to the respective positions of a curator and a committee, see *Re R. S. A.* [1901] 2 K. B. 32; C. A., [1901] W. N. 58; and *Re Aytoun*, [1901] W. N. 165.

(3.) Where a tutor at law after cognition or a *curator bonis* has been appointed to a lunatic in Scotland, who has personal property in England or Ireland, the tutor at law or *curator bonis* shall, without an inquisition or other proceedings in [Property in England or Ireland of Scotch lunatic.]

Section 131. England or Ireland, have all the same powers as to such property, or the income thereof, as might be exercised by the committee of the estate of a lunatic, so found by inquisition in England or Ireland.

[Small properties in England or Ireland.]

34 & 35 Vict.
c. 22, s. 68.

(4.) The powers of management and administration conferred by this Act in cases where the property of a person of unsound mind does not exceed two thousand pounds in value, or the income thereof does not exceed one hundred pounds per annum, and the powers conferred by section sixty-eight of the Lunacy Regulation (Ireland) Act, 1871, shall extend to the property in Ireland or England, as the case may be, of the lunatic where the total value of the property in England and Ireland does not exceed two thousand pounds in value, or the income thereof does not exceed one hundred pounds a year.

As to the powers of management and administration conferred by this Act and here referred to, see sections 116—130 inclusive, *ante*, pp. 260—282.

Section 68 of the Lunacy Regulation (Ireland) Act, 1871, 34 & 35 Vict. c. 22, makes similar provision in respect of lunatics in Ireland.

Power of County Court Judge.

Power to deal with property of small amount.

132. (1.) Where a reception order is made in the case of a lunatic the value of whose real and personal property is under two hundred pounds, and no relative or friend of the lunatic is willing to undertake the management of such property, any judge of county courts having jurisdiction in the place from which the lunatic is sent, may, upon the application of the clerk of the guardians, or a relieving officer of the union from which the lunatic is sent, authorise the clerk or relieving officer, or such other person as the judge by his order appoints, to take possession of and sell and realise the real and personal property of the lunatic, and to exercise all the powers which could be exercised by the legal personal representative of the lunatic if he were dead; and the receipt of the person so authorised shall be a valid discharge to any person who pays any money or delivers any property of the lunatic to such person.

Transfer of Stock.—A county court judge has no power under this section to make an order for the transfer of stock standing in the name of a lunatic. Such stock can only be dealt with by the Judge in Lunacy under the subsequent sections under the heading "Vesting Orders," sections 133—143, *post*. *Re Noyce*, [1892] 1 Q. B. 642; 61 L. J. Q. B. 628; 66 L. T. 331; 40 W. R. 371; 56 J. P. 564.

Where a receiver has been appointed of funds of a lunatic in a pauper asylum, an injunction may be obtained to restrain the guardians from levying a distress against the trustees under a magisterial order: *Winkle v. Bailey* (1896), W. N. 175 (11); [1897] 1 Ch. 123. Section 132.

NOTE.

Expenses of Guardians.—See also section 300, *post*, p. 415, as to the power of a county court judge to make orders upon applications by the guardians for payment of expenses incurred by them under this Act.

Procedure.—By the County Court Rules, 1903, Order 50, Rule 17, applications to a judge under sections 300 and 132 of the Lunacy Act, 1890, shall be made by petition, and the same procedure shall be followed, and the same fees and costs allowed, as on any petition under Order 38.

It will be observed that the application can only be made by the clerk to the guardians, or a relieving officer, and not by any relative. 57 J. P. 27.

(2.) The judge, by whom such order is made, may by the same or any subsequent orders give such directions as he thinks fit as to the application of the property of the lunatic for his benefit or in reimbursement of such sums as may have been or may be expended by the guardians of the union for his care or relief, or of the costs or expenses incurred in relation to the lunatic by such guardians, or by the person acting under any such order as aforesaid, or the judge may, if he thinks fit, order that the whole or any part of the proceeds of the lunatic's property be paid into the county court to the credit of an account intituled in the matter of such lunatic, and any sum so paid into court may either be invested in the manner provided by the county court rules in force for the time being, or be paid out of court from time to time to such person as the judge directs, to be held and applied for the benefit of such lunatic, or in or towards such reimbursement as aforesaid, in such manner as the judge directs. [Directions for application on payment into court.]

As to investments and payments into court, etc., see County Court Rules, 1903, Orders 37 and 38.

(3.) The person acting under any such order shall render an account of his dealings with the lunatic's property to the judge by whom such order was made in such manner as the judge appoints. [Accounts to be rendered.]

It will be seen that this section affords but limited means of dealing with small estates, firstly because the judge can only deal with certain classes of property, see cases quoted to sub-section 1, and secondly because the application must proceed from the Relieving Officer or through the guardians.

Section 133.

Power to
transfer stock
of lunatic.

Vesting Orders.

133. Where any stock is standing in the name of or is vested in a lunatic beneficially entitled thereto, or is standing in the name of or vested in a committee of the estate of a lunatic so found by inquisition, in trust for the lunatic, or as part of his property, and the committee dies intestate, or himself becomes lunatic, or is out of the jurisdiction of the High Court, or it is uncertain whether the committee is living or dead, or he neglects or refuses to transfer the stock, and to receive and pay over the dividends thereof as the Judge in Lunacy directs, then the Judge may order some fit person to transfer the stock to or into the name of a new committee or into court or otherwise, and also to receive and pay over the dividends thereof in such manner as the Judge directs.

Who may Apply.—As to the persons who may apply under this section, see Rules in Lunacy, 1892, Rule 57, *post*, p. 646.

Mode of Application.—As to the mode of application and service, see Rule in Lunacy, dated 29th October, 1900, *post*, p. 670. See also *Re Purvis*, [1904] 1 Ch. 373; [1904] W. N. 47, as to an order in lunacy directing a transfer of stock under section 133 of the Lunacy Act, 1890, where the matter should be intituled, in the matter of the Lunacy Acts, 1890—1911, as well as in the matter of the particular lunacy; this does not, however, apply to cases under section 116 (1) (*d*), where the title contains a reference to the statutes 53 Vict. c. 5 and 54 & 55 Vict. c. 65.

Fit Person to Transfer.—As to the person to be appointed to transfer, see section 137, *post*, p. 294, and Rules in Lunacy, 1892, Rule 121, *post*, p. 656.

New Trustee.—As to appointment of new trustees, see section 141, *post*, p. 295.

Costs.—As to costs, see section 142, *post*, p. 296.

Office Copy Order to be acted on.—As to acting upon an office copy of the order, see section 145, *post*, p. 297.

Indemnity to Bank, &c.—As to the indemnification of the Bank or company, or society, see section 333, *post*, p. 442.

Validity of Transfers and Payments.—As to the validity of transfers and payments, see section 146, *post*, p. 297.

Dividends of Lunatic Joint Stockholder.—It may here be noted that it is provided by section 19 of the National Debt Act, 1870, 33 & 34 Vict. c. 71, that where stock ("stock" meaning the Government annuities mentioned in the First Schedule) is standing in the name of an infant or person of unsound mind jointly with any person not under legal disability, a letter of attorney for the receipt of the dividends on the stock shall be sufficient authority in that behalf if given under the hand and seal of the person not under disability, attested by two or more credible witnesses. The Bank of England or of Ireland, before acting on the letter of attorney, may require proof to their satisfaction of the alleged infancy or unsoundness of mind, by the declaration of competent persons under the Statutory Declarations

Act, 1835, 5 & 6 Will. 4, c. 62. It is also further provided by section 73 of the National Debt Act, 1870, that (amongst other things) the above cited provisions relating to receipt of dividends on stock standing in the names of infants or persons of unsound mind shall apply to all stock of any company or corporation, funds or annuities, transferable in the books of the Bank of England or of Ireland.

Similarly, by section 6 of the Colonial Stock Act, 1877, 40 & 41 Vict. c. 59, it is enacted that where colonial stock to which that Act applies is standing in the name of an infant or person of unsound mind jointly with any person not under legal disability, a letter of attorney for the receipt of the dividends on the stock shall be sufficient authority in that behalf, if given under the hand and seal of the person not under disability, and attested. The registrar, before acting on the letter of attorney, may require proof to his satisfaction of the alleged infancy or unsoundness of mind, by the declaration of competent persons made under the Statutory Declarations Act, 1835, or in such other manner as he may reasonably require.

Shares, &c., of Lunatic in Industrial, &c., Societies.—By section 29 of the Industrial and Provident Societies Act, 1893, 56 & 57 Vict. c. 39, where a member or person claiming through a member of a society is insane, and no committee of his estate or trustee of his property has been duly appointed, the society may, when it is proved to the satisfaction of the committee that it is just and expedient so to do, pay the amount of the shares, loans, and deposits (*not exceeding one hundred pounds*) (*a*) belonging to such member or person, to any person whom they shall judge proper to receive the same on his behalf, whose receipt shall be a good discharge to the society for any sum so paid. And by section 30 of the same Act all payments or transfers made by the committee of a registered society under the provisions of this Act with respect to payments or transfers to or on behalf of insane members, to any person who at the time appears to the committee to be entitled thereunder, shall be valid and effectual against any demand made upon the committee or society by any other person.

There are no similar statutory provisions with regard to property in building societies, friendly societies, or loan societies, but the rules of such societies generally make special provision for the lunacy of their members.

134. Where any stock is standing in the name of or vested in a person residing out of the jurisdiction of the High Court, the Judge in Lunacy, upon proof to his satisfaction that the person has been declared lunatic, and that his personal estate has been vested in a person appointed for the management thereof, according to the law of the place where he is residing, may order some fit person to make such transfer of the stock or any part thereof to or into the name of the person so appointed

Stock in
name of
lunatic out
of the
jurisdiction.

(*a*) By section 7 of the Industrial and Provident Societies (Amendment) Act, 1913, 3 & 4 Geo. 5, c. 31, the words “not exceeding one hundred pounds” were repealed.

Section 133.
NOTE.

Section 134. or otherwise, and also to receive and pay over the dividends thereof, as the judge thinks fit.

Inquiries before Masters.—As to inquiries by the masters with reference to property of a lunatic out of the jurisdiction, see Rules in Lunacy, 1892, Rule 35, *post*, p. 642.

Cases under previous Statute.—A debenture bond of a limited company, according to the constitution of which debentures were transferable by deed, and the deeds of transfer upon presentation to the company registered in the company's book of mortgages, was ordered to be transferred under section 141 of the Lunacy Regulation Act, 1853, to the *curator bonis* of a lunatic domiciled in Scotland duly appointed by the Lords of Council and Session, upon evidence that according to the law of Scotland the *curator bonis* would, if this property had been in Scotland, have been entitled to get it in without giving security: *Re Mitchell* (1881), 17 Ch. D. 515; 45 L. T. (N.S.) 60.

It was held that, upon petition by the *curator bonis* of an English lunatic resident in France, duly appointed by the French court, for payment to him, as a matter of right, of a fund to which the lunatic was entitled, paid into court in this country, the court could exercise a discretion, and it appearing that the lunatic was sufficiently provided for, an order was made for retaining the corpus of the fund in court, and for payment of the dividends only to the curator: *Re Garnier* (1872), L. R. 13 Eq. 532; 41 L. J. Ch. 419; 25 L. T. (N.S.) 928; 20 W. R. 288.

Where a petition to the Lords of Council and Session in Scotland for the appointment of a *curator bonis* to a person stated therein to be of unsound mind had affidavits annexed thereto proving insanity, and no other affidavits, and was indorsed with a memorandum simply appointing a curator, it was held that such person was sufficiently declared lunatic for the purposes of section 141 of the Lunacy Regulation Act, 1853: *Re Tarratt* (1883), 51 L. T. (N.S.) 310; 32 W. R. 909.

The court must be satisfied not only that the person has been declared lunatic, but also that his personal estate has been vested in a person appointed for the management thereof: *Re Clyde*, W. N. (1889), 43.

An order will not be made under this section for the transfer of the capital of stock representing the proceeds of the sale of real estate belonging to the lunatic in England, which has been sold under a special jurisdiction (*e.g.*, the Partition Act, 1868) created by the legislature of this country in reference to land the ownership of which is regulated solely by the law of this country, but payment of the dividends only will be allowed to the curator: *Grimwood v. Bartels* (1877), 46 L. J. Ch. 788; 25 W. R. 143.

As to the law of Jersey respecting the receipt of dividends by a curator, see *Re Albo's Trusts*, 7 L. T. (N.S.) 778; 11 W. R. 80.

High Court Jurisdiction as to Infants.—As to the similar jurisdiction with regard to funds in court belonging to infants found lunatics abroad, which is derived from the old Court of Chancery independently of statute, see *Volans v. Carr* (1849), 2 De G. & Sm. 242; 12 Jur. 643; and *Re Garnier*, above cited.

Cases under present Statutes.—As to the power of the court to transfer

personal property of a lunatic so found abroad to the tuteur appointed, see *Re Brown*, [1895] 2 Ch. 666. The discretionary power of the court to transfer property to a curator abroad will only be exercised on proof that the property is required for the maintenance of the lunatic. See *Re Knight*, C. A., [1898] 1 Ch. 257; *New York Security & Trust Co. v. Keyser*, [1901] W. N. 14; [1901] 1 Ch. 666; and *Re Larragoiti*, [1907] 2 Ch. 14.

Section 134.

NOTE.

135. (1.) When a lunatic is solely or jointly seised or possessed of any land upon trust or by way of mortgage the Judge in Lunacy may by order vest such land in such person or persons for such estate, and in such manner, as he directs.

Power to vest lands and release contingent right of lunatic trustee or mortgagee.

The powers of the Judge in Lunacy under sections 135—143 (excepting in relation to lunatic mortgagees not being also trustees) have been transferred to the High Court: Lunacy Act, 1911, s. 1, *post*.

For convenience the section is here set out:—

“The powers of the Judge in Lunacy under sections one hundred and thirty-five to one hundred and forty-three of the Lunacy Act, 1890, as amended by any subsequent enactment to make such vesting and other orders as are in those sections mentioned shall except so far as they relate to lunatic mortgagees, not being also trustees, be transferred to, and, subject to rules of the Supreme Court, be exercisable by, the High Court, and except as aforesaid, those sections as so amended shall have effect accordingly as if for references to the Judge in Lunacy there were substituted references to the High Court.”

No such rules as referred to in this section of the Act of 1911 have yet been made; but an order was made under this section by WARRINGTON, J., in Chambers on 29th January, 1912, in *Re Borrás*, 1912, B. No. 244, on an application made by originating summons intituled in the matter of the will of the deceased and in the matter of the lunatic trustee and in the matter of Lunacy Acts, 1890—1911; the Judge expressing the opinion that application under this section should be so intituled.

The above sub-section 135 (1) is a re-enactment of the first clause of section 3 of the Trustee Act, 1850, 13 & 14 Vict. c. 60, with the addition of the words “solely or jointly,” in accordance with the decision in *Re Jones* (1886), 33 Ch. D. 414; 56 L. J. Ch. 272; 55 L. T. (N.S.) 498; 35 W. R. 172. Compare section 26 of the Trustee Act, 1893, 56 & 57 Vict. c. 53.

Diminishing Number of Trustees.—Where one of four trustees of a will relating to money invested on mortgage and in stocks, &c., was found lunatic by inquisition it was held that an order might be made vesting his estate in the other three trustees, although the number of trustees was thereby diminished: *Re Leon*, [1892] 1 Ch. 348; 66 L. T. 390.

Procedure.—As to applications, see Rules in Lunacy, 1892, Rules 57, 59, and 29th October, 1900, *post*, pp. 646, 670.

Costs.—As to costs, see section 142, *post*, p. 296.

Execution of Conveyances.—An order may be made under this sub-section directing the committee of a mortgagee being a lunatic so found to execute a transfer of the mortgage: *Re Peel* (1886), 55 L. T. (N.S.) 554; 35 W. R. 81.

Where a mortgagee was a lunatic not so found but an order had been

Section 135. made for the administration of her property under section 12 of the Lunacy Regulation Act, 1862, 25 & 26 Vict. c. 86, it was held that section 3 of the Trustee Act, 1850, authorised the appointment of a person to transfer the mortgage on payment of the money into court, to be applied to the maintenance of the lunatic: *Re Nicholson* (1887), 34 Ch. D. 663; 56 L. J. Ch. 1036; 56 L. T. (N.S.) 770; 35 W. R. 569.

NOTE.

Leaseholds having been agreed to be sold by a person for a sum, a part of which was to be paid down, and the balance at some future date, possession was given and the first payment made. Subsequently the vendor who resided abroad became insane and a curator was appointed to receive future payments. Upon a petition by the purchasers and the curator an order was made under this section and the leaseholds vested in the purchasers, but such order was to be dated after the final payment had been made with interest, to the curator: *Re Pagani's Trust*, C. A., [1892] 1 Ch. 236.

(2.) When a lunatic is solely or jointly entitled to a contingent right in any land upon trust or by way of mortgage, the Judge may by order release such hereditaments from the contingent right, and dispose of the same to such person or persons as the Judge directs.

See notes to previous sub-section as to operation of Lunacy Act, 1911.

This sub-section is a re-enactment of the first clause of section 4 of the Trustee Act, 1850, 13 & 14 Vict. c. 60. Compare section 26 of the Trustee Act, 1893, 56 & 57 Vict. c. 53.

(3.) (*An order under sub-sections (1) and (2) shall have the same effect as if the trustee or mortgagee had been sane, and had executed a deed conveying the lands for the estate named in the order, or releasing or disposing of the contingent right.*)

This sub-section was repealed and re-enacted in a different form by the Lunacy Act, 1908, section 2, *post*, p. 490.

Stamp Duties.—By 54 & 55 Vict. c. 39, section 62, superseding section 13 of the Trustee Act, 1850 (15 & 16 Vict. c. 55), orders having the effect of conveyances carry the corresponding stamps. The expression “conveyance” in the Stamp Act, 1891, includes any decree or order of any court whereby any property or any estate or interest in any property upon the sale thereof is transferred to and vested in a purchaser (see section 54 of that Act); and under section 62 of the same Act every decree or order of any court whereby any property on any occasion, except a sale or mortgage, is transferred to and vested in any person, is to be charged with duty as a conveyance or transfer of property. Provided that a conveyance or transfer made for effectuating a new trustee is not to be charged with any higher duty than ten shillings.

(4.) In all cases where an order can be made under this section the Judge may, if it is more convenient, appoint a person to convey the land or release the contingent right, and a conveyance

[Appointment of person to convey or release.]

or release by such person in conformity with the order shall have the same effect as an order under sub-sections (1) and (2). Section 135.

See note to sub-section 1 as to operation of Lunacy Act, 1911.

See *Re Peel* and *Re Nicholson*, *ubi supra*.

Where a sale had been made in a partition action of lands in which a lunatic out of the jurisdiction had an undivided share as tenant in tail, in order to avoid the necessity of an application in lunacy, the lunatic was declared a trustee of the share, and instead of making a vesting order the court appointed a person to convey and directed the purchase money to be paid into court as money liable to be invested in land subject to the same limitations as the undivided share: *Caswells v. Sheen* (1893), W. N. 187.

(5.) Where an order under this section vesting any copyhold land in any person or persons is made with the consent of the lord or lady of the manor, such land shall vest accordingly without surrender or admittance. [Copyholds to vest without surrender and admittance.]

It is not necessary for the lord or lady of the manor to appear in court to consent to a vesting order under this section, a verified certificate of consent being sufficient: *Ayles v. Cox* (1854), 17 Beav. 584.

Where the order is made without such consent, there must be a surrender and admittance, and the question of the lord's right to fines will not be prejudiced by such order: *Paterson v. Paterson* (1866), L. R. 2 Eq. 31; *Re Flitcroft*, 1 Jur. (N.S.) 418; *Re Hurst* (1855), "Seton on Decrees," 7th edition, p. 1210. See *contra*, *Cooper v. Jones* (1855), 25 L. J. Ch. 240; 2 Jur. (N.S.) 59; *Re Howard*, 3 W. R. 605.

The lord will only be entitled to one fine upon the admittance of the substituted trustee where the original trustee has not been admitted: *Bristow v. Booth* (1869), L. R. 5 C. P. 80.

(6.) Where an order is made appointing any person or persons to convey any copyhold land, such person or persons shall execute and do all assurances and things for completing the assurance of the lands; and the lord and lady of the manor shall, subject to the customs of the manor and the usual payments, be bound to make admittance to the land, and to do all other acts for completing the assurance thereof, as if the persons in whose place an appointment is made were free from disability and had executed and done such assurances and things. [Appointment of person to convey copyholds. Duties of lord.]

Form of Order.—For form of order under this sub-section, see *Re Hey's Will* (1852), 9 Ha. 221; 22 L. J. Ch. 248; *Re Crowe* (1871), L. R. 13 Eq. 26; 41 L. J. Ch. 32.

136. (1.) Where a lunatic is solely entitled to any stock or chose in action upon trust or by way of mortgage, the Judge in Lunacy may by order vest in any person or persons the right to transfer or call for a transfer of the stock, or to receive the dividends thereof, or to sue for the chose in action. Power to vest right to transfer stock and sue for chose in action.

Section 136. See note to section 135 as to operation of Lunacy Act, 1911.

NOTE.

Where orders are made in respect of shares upon which there is a liability for calls, an order should not be made for the trustees to transfer such stock into *their own names*: *Re Gregson*, C. A., [1893] 3 Ch. 233.

Trustees for Building, &c., Societies.—As to the transfer of stock standing in the name of any person as trustee for a building, friendly, or industrial society, or trade union, in case such person becomes a lunatic, see notes to following sub-section.

Practice as to Application.—As to who may apply, and how, and whom to serve, see Rules in Lunacy, 1892, Rules 58, 59, and 29th October, 1900, *post*, pp. 646, 670.

New Trustee.—As to appointment of a new trustee, see section 141, *post*, p. 295.

[Lunatic joint trustee or mortgagee of stock.]

(2.) In the case of any person or persons jointly entitled with a lunatic to any stock or chose in action upon trust or by way of mortgage, the Judge may make an order vesting the right to transfer or call for a transfer of the stock, or to receive the dividends thereof, or to sue for the chose in action either in such person or persons alone or jointly with any other person or persons.

See note to section 135 as to operation of Lunacy Act, 1911.

Exclusive Jurisdiction.—Where stock is standing in the names of two trustees in whom alone the power of appointing new trustees is vested by the deed creating the trust, and one of the two trustees is found a lunatic by inquisition, the Chancery Division of the High Court has no jurisdiction, but a petition in lunacy is necessary in order to obtain a transfer of the fund into court: *Re Drysdale* (1861), 7 Jur. (N.S.) 667; 9 W. R. 428.

Transfer to Beneficiaries.—As an order may be made under this sub-section vesting the right to transfer stock in the trustees who are of sound mind, and then if they decline to act, a second order may be made in Chancery vesting the same right in the parties beneficially entitled, in order to avoid this circuitry where the trustees who are of sound mind refuse to act, a single order may be made vesting the right to transfer in the parties beneficially entitled: *Re White* (1870), L. R. 5 Ch. 698; S.C. *sub nom.* *Re Nicholls*, 22 L. T. (N.S.) 323; 18 W. R. 443. So also where the co-trustees of the lunatic are out of the jurisdiction: *Re Stewart*, 8 W. R. 297.

See also *Re Leon* cited in the notes to section 135 (1), *ante*.

Trustees for Building, &c., Societies.—It is specially provided by section 36 of the Building Societies Act, 1874, 37 & 38 Vict. c. 42, that when any person in whose name any stock transferable at the Bank of England or Bank of Ireland is standing, either jointly with another or others or solely, as a trustee for any society under that Act, becomes a lunatic, the registrar, on application in writing from the secretary or other officer of the society, and three members of the board of directors, or committee of management thereof, and on proof satisfactory to him, may direct the transfer of the stock into the name of any other person or persons as trustee or trustees for

the society; and such transfer shall be made by the surviving or continuing trustee or trustees, and if there be no such trustee, or if such trustee or trustees shall refuse or be unable to make such transfer, and the registrar shall so direct, then by the Accountant-General, or deputy or Assistant Accountant-General, of the Bank of England or the Bank of Ireland, as the case may be; and the Governors and Companies of the Bank of England and Bank of Ireland respectively are hereby indemnified for anything done by them or any of their officers in pursuance of this section against any claim or demand of any person injuriously affected thereby.

Section 136.

NOTE.

Similar provisions as regards the transfer of stock standing in the name of any person as trustee for a friendly society are contained in section 15 (6) of the Friendly Societies Act, 1875, 38 & 39 Vict. c. 60; as trustee for a trade union or any branch of a trade union, in section 4 of the Trade Union Act Amendment Act, 1876, 39 & 40 Vict. c. 22; or as trustee for an industrial and provident society, in section 31 of the Industrial and Provident Societies Act, 1893, 56 & 57 Vict. c. 39.

(3.) When any stock is standing in the name of a deceased person, whose personal representative is a lunatic, or when a chose in action is vested in a lunatic as the personal representative of a deceased person, the Judge may make an order vesting the right to transfer or call for a transfer of the stock, or to receive the dividends thereof, or to sue for the chose in action in any person or persons he may appoint.

[Lunatic personal representative.]

See note to section 135 as to operation of Lunacy Act, 1911.

Application.—As to who may apply and how and whom to serve, see Rules in Lunacy, 1892, Rules 57—59, and 29th October, 1900, *post*, pp. 646, 670.

(4.) In all cases where an order can be made under this section, the Judge may, if it is more convenient, appoint some proper person to make or join in making the transfer.

[Appointment of person to transfer.]

(5.) The person or persons in whom the right to transfer or call for a transfer of any stock is vested, may execute and do all powers of attorney, assurances, and things to complete the transfer to himself or themselves or any other person or persons according to the order, and the Bank and all other companies and their officers and all other persons shall be bound to obey every order under this section according to its tenor.

[Execution of assurances.]

Compare section 35 (3) of the Trustee Act, 1893, 56 & 57 Vict. c. 53. See *Re Smyth's Settlement*, 4 De G. & S. 499.

Office Copy Order to be Acted on.—As to acting on an office copy of the order, see section 145, *post*, p. 297.

Validity of Transfers, &c.—As to the validity of transfers and payments, see section 146, *post*, p. 297.

Indemnity to Bank, &c.—As to the indemnification of the Bank or other company, see section 333, *post*, p. 442.

Section 136. (6.) After notice of writing of an order under this section, it shall not be lawful for the Bank or any other company to transfer any stock to which the order relates or to pay any dividends thereon except in accordance with the order.

[Effect of notice of order.]

Person to be appointed to transfer.

137. Where a person is appointed to make or join in making a transfer of stock, such person shall be some proper officer of the Bank, or the company or society whose stock is to be transferred.

Where the court had made an order that the right to call for a transfer, and to transfer into his own name, consols, standing in the name of the lunatic, should vest in a given person, and the Bank of England refused to act upon such order on the ground that under this section some officer of the Bank should have been appointed, it was held that the order of the judge was right and that the bank must act upon it. *CHITTY, J.*, held that this section 137 applies as regards section 136 only to the 4th subsection of that section: *Re C. M. G.*, C. A., [1898] 2 Ch. 324.

Powers of Appointment.—Power to appoint such person is given by section 133, *ante*, section 134, *ante*, and section 136 (4), *ante*, pp. 286, 287, 293.

Default of Appointment.—As to proper persons to transfer on orders for payment into court where no person is named in the order, see Rules in Lunacy, 1892, Rule 121, *post*, p. 656.

Charity trustees.

138. The powers conferred by this Act as to vesting orders may be exercised for vesting any land, stock, or chose in action in the trustee or trustees of any charity or society over which the High Court would have jurisdiction upon suit duly instituted, whether the appointment of such trustee or trustees was made by instrument under a power or by the High Court under its general or statutory jurisdiction.

See notes to section 135 as to operation of Lunacy Act, 1911.

Section 28 of the Charitable Trusts Act, 1853, 16 & 17 Vict. c. 137, confers upon any equity judge at chambers the same jurisdiction as he would have exercised before the passing of that Act in a suit regularly instituted or upon petition, in the case of any charity of which the gross annual income exceeds thirty pounds. New trustees of a charity having been appointed under that Act, it was held that a vesting order under the Trustee Acts, 1850 and 1852, might be made in chambers, notwithstanding that the surviving trustee was a lunatic: *Re Davenport's Charity*, 4 De G. M. & G. 839.

Declarations and directions.

139. The Judge in Lunacy may make declarations and give directions concerning the manner in which the right to any stock or chose in action vested under the provisions of this Act is to be exercised.

See note to section 135 as to operation of Lunacy Act, 1911.

Section 139.

The court may under this section order a fund to be paid into court under the Trustee Relief Act : *Re Thornton's Trusts*, 9 W. R. 475. See *Re Draper's Settlement*, *ibid.*, 805. But there is no power to order payment into court immediately : *Re Parby's Settlement*, 29 L. T. (o.s.) 72.

NOTE.

140. [*The fact that an order for conveying any land or releasing any contingent right has been founded upon an allegation of the personal incapacity of a trustee or mortgagee shall be conclusive evidence of the fact alleged in any court upon any question as to the validity of the order, but this section shall not prevent a Judge of the High Court from directing a re-conveyance of any lands or contingent right dealt with by the order, or from directing any party to any proceeding concerning such land or right to pay any costs occasioned by the order when the same appears to have been improperly obtained.*]

Order to be conclusive evidence of allegation on which it is founded.

This section has been repealed by section 51 and the schedule of the Trustee Act, 1893, 56 & 57 Vict. c. 53.

New Enactment.—By section 40 of the Trustee Act, 1893, 56 & 57 Vict. c. 53, it is enacted that where a vesting order is made as to any land mentioned in that Act or under the Lunacy Act, 1890, or under any Act relating to lunacy in Ireland, founded on an allegation of the personal incapacity of a trustee or mortgagee, or an allegation that a trustee or the heir or personal representative or devisee of a mortgagee is out of the jurisdiction of the High Court or cannot be found, or that it is uncertain which of several trustees or which of several devisees of a mortgagee was the survivor, or whether the last trustee or the heir or personal representative or last surviving devisee of a mortgagee is living or dead, or on an allegation that any trustee or mortgagee has died intestate without an heir, or has died and it is not known who is his heir or personal representative or devisee, the fact that the order has been so made shall be conclusive evidence of the matter so alleged in any court upon any question as to the validity of the order; but this section shall not prevent the High Court from directing a reconveyance or the payment of costs occasioned by any such order if improperly obtained.

141. In every case in which the Judge in Lunacy has jurisdiction to order a conveyance or transfer of land or stock or to make a vesting order, he may also make an order appointing a new trustee or new trustees.

Power to appoint new trustees.

See note to section 135 as to operation of Lunacy Act, 1911.

By section 25 of the Trustee Act, 1893, 56 & 57 Vict. c. 53, the High Court may, whenever it is expedient to appoint a new trustee or trustees, and it is found inexpedient, difficult, or impracticable to do so without the assistance of the court, make an order for the appointment of a new trustee or new trustees either in substitution for or in addition to any existing trustee or trustees, or although there is no existing trustee.

Section 141. *No Order if Lunacy Disputed.*—A trustee will not be discharged on the ground of lunacy on petition under this enactment, and a new trustee appointed in his place, if the unsoundness of mind is disputed by him. The proper mode of establishing the lunacy in such a case is by petition in lunacy, or by an action in the High Court to remove the trustee: *Re Combs*, 51 L. T. (N.S.) 45; *Re Walker*, Cr. & P. 147; *Re Campbell*, 18 L. T. 202.

NOTE.

Powers independent of the Court.—It may here be noticed that section 10 of the Trustee Act, 1893, 56 & 57 Vict. c. 53, contains special powers for the appointment otherwise than by the Court of new trustees in the place of a trustee who is unfit to act, or incapable of acting, in the trusts or powers reposed in him. A person of unsound mind, though not so found by inquisition, is incapable of acting within the meaning of this section: *Re East* (1873), 42 L. J. Ch. 480.

Trustees under Settled Land Acts.—Section 38 of the Settled Land Act, 1882, 45 & 46 Vict. c. 38, also contains special powers for appointing trustees for the purposes of that Act, and it has been considered expedient to appoint new trustees thereunder where a trustee has become incapable through age and mental infirmity: *Re Lemann's Trusts* (1883), 22 Ch. D. 633; 52 L. J. Ch. 560; 48 L. T. (N.S.) 389; 31 W. R. 520. See also section 47 of the Trustee Act, 1893, 56 & 57 Vict. c. 53.

Costs.

142. The Judge in Lunacy may order the costs of and incident to obtaining an order under the provisions of this Act as to vesting orders and carrying the same into effect to be paid out of the land or personal estate or the income thereof in respect of which the order is made, or in such manner as the Judge may think fit.

See notes to section 135 as to operation of Lunacy Act, 1911.

Where the committee of a lunatic mortgagee petitions for a reconveyance to the mortgagor, the mortgagor is not entitled to his costs out of the lunatic's estate, even though he has been served with the petition: *Re Phillips*, 4 Ch. 629.

Each party must bear his own costs, in the case of a mortgagor applying for a vesting order, on payment into court of mortgage debt, making the mortgagee who is a lunatic not so found, a respondent to the petition: *Re Sparks*, 6 Ch. D. 361.

Where an order had been made under sections 128 and 129 of the Lunacy Act, 1890, authorising a committee to exercise a lunatic's power of appointing new trustees to call for a transfer of bank annuities into their own names, and the Bank considered that the order was one which they ought not to act upon, an application was made to test the validity of the order. The order was found to be correct, but nevertheless the costs of the application were not allowed against the Bank, who could not be regarded as "hostile litigants, but as amici curiæ": *Re Shortridge*, C. A., [1895] 1 Ch. 278.

Saving of
power of
High Court.

143. The provisions of this Act as to vesting orders shall not affect the jurisdiction of the High Court as to any lunatic trustee or mortgagee who is an infant.

See Lunacy Act, 1911, *post*, p. 492.

Section 143.

This section expresses the principle laid down in *Re Arrowsmith's Trusts* (1858), 27 L. J. Ch. 704; 4 Jur. (N.S.) 1123; 6 W. R. 642, and acted upon ever since. See also *Re Edwards* (1879), 10 Ch. D. 605; 48 L. J. Ch. 233; 40 L. T. 113; 27 W. R. 611.

NOTE.

Orders of Judge in Lunacy and Certificates of Masters.

144. Every office copy of the whole of an order or report confirmed by fiat purporting to be signed by a Master, and sealed or stamped with the seal of the Masters' office, and every office copy of a certificate in lunacy shall at all times, and on behalf of all persons, and whether for the purposes of this Act or otherwise, be admitted as evidence of the order, report, or certificate of which it purports to be a copy, without any further proof thereof.

Office copies
to be
evidence.

An order by a Master reciting that in his opinion a person is of unsound mind, is admissible as *prima facie* evidence of the facts therein, and if uncontradicted, is sufficient evidence to justify an order under the Ceylon Procedure Code, c. 12, section 87, and moreover should be admissible as evidence throughout His Majesty's dominions: *Harvey v. Rex*, [1901] A. C. 601.

145. Where an order relates to the payment, transfer, carrying over, or depositing of any cash, stocks, funds, annuities, securities, or other effects into or in court to the credit of the matter of a lunatic, or to the payment, transfer, or carrying over, or other disposal by the Paymaster-General of any cash, stocks, funds, annuities, securities, or other effects standing in his name or deposited in his custody to the credit of the matter of a lunatic, or of any cash, stocks, funds, annuities, securities, or other effects to or in which a lunatic is entitled or beneficially interested, and which are not standing to the credit of a cause or matter depending in the High Court, the Paymaster-General and the Bank, and all other persons, shall act upon an office copy of the order.

Money
orders to be
acted upon.

146. All transfers and payments made in pursuance of this Act under an order or a Master's certificate shall be valid and binding on all persons.

Transfers to
be binding.

147. If any person forges the signature of a Master, or forges or counterfeits the seal of the Masters' Office, or knowingly concurs in using any such forged or counterfeited signature or seal, or tenders in evidence any document with a false or

Forgery of
signature of
Master or
seal of
Masters'
office.

Section 147. counterfeit signature of a Master, or with a false or counterfeit seal, knowing the same signature or seal to be false or counterfeit, every such person shall be guilty of felony, and shall upon conviction be liable to penal servitude for a term not exceeding seven years, or to be imprisoned for a term not exceeding three years with or without hard labour.

Percentage and Fees.

Percentage
and fees.

148. (1.) The Lord Chancellor, with the concurrence of the Treasury, may make rules fixing the percentage and fees payable in proceedings relating to lunatics and their estates, and regulating the mode in which the same are to be ascertained and paid.

Extension.—The power conferred by this sub-section has been extended by section 27 (3), of the Lunacy Act, 1891, 54 & 55 Vict. c. 65, *post*, p. 487.

(2.) Save as otherwise provided by the Rules in Lunacy the percentage and fees in lunacy shall be subject to the rules contained in section 26 of the Supreme Court of Judicature Act, 1875.

38 & 39 Vict.
c. 77, s. 26.

Rules as to Percentage and Fees.—As to the Rules in Lunacy, see section 338 (2), (5), *post*, p. 446, and Rules in Lunacy, 1892, Rules 126—140, *post*, pp. 657—660.

Judicature Act, 1875, s. 26.—By section 26 of the Supreme Court of Judicature Act, 1875, 38 & 39 Vict. c. 77, it is enacted that the Lord Chancellor, with the advice and consent of the Judges of the Supreme Court, or any three of them, and with the concurrence of the Treasury, may, either before or after the commencement of this Act, by order, fix the fees and percentages (including the percentage on estates of lunatics), to be taken in the High Court of Justice, or in the Court of Appeal, or in any court created by any commission, or in any office which is connected with any of those courts, or in which any business connected with any of those courts is conducted, or by any officer paid wholly or partly out of public moneys who is attached to any of those courts or the Supreme Court, or any judge of those courts, including the Masters and other officers in Lunacy, and may, from time to time, by order, increase, reduce, or abolish, all or any of such fees and percentages, and appoint new fees and percentages, to be taken in the said courts or offices, or any of them, or by any such officer as aforesaid.

Any order made in pursuance of this section shall be binding on all the courts, offices, and officers to which it refers, in the same manner as if it had been enacted by Parliament.

* * * * *

(3.) The Treasury, with the concurrence of the Lord Chancellor, may from time to time make such rules as may seem fit for publishing the amount of the fees.

An order under this section may abolish any existing fees and percentages which may be taken in the said courts or offices, or any of them, or by the said officers or any of them, but, subject to the provisions of any order made in pursuance of this section, the existing fees and percentages shall continue to be taken, applied, and accounted for in the existing manner.

The third paragraph of the foregoing section to the end of the sub-sections, except sub-section (3), was repealed by the Statute Law Revision Act, 1883, 46 & 47 Vict. c. 39, having been superseded by the provisions of the Public Offices Fees Act, 1879, 42 & 43 Vict. c. 58.

Treasury Order as to Stamps.—By section 3 of that Act the Treasury are empowered to make certain regulations with respect to fees. See the Treasury Order dated August 11, 1892, as to the fees and percentages under section 148 of the Lunacy Act, 1890, which are required to be taken for Lunacy proceedings in the High Court of Justice and Court of Appeal by means of stamps: (St. R. & O., 1892), *post*, p. 671.

(3.) The percentage, or a proper proportionate part thereof (as the case may require), shall be charged upon the estate of a lunatic, and be payable thereout, although before payment thereof he die, or the inquisition be superseded, or be vacated and discharged on a traverse; but in either of the two last-mentioned cases the Judge in Lunacy may, if he thinks fit, remit or reduce the amount of the sum to be paid.

(4.) Where it is made to appear to the Judge in Lunacy that the property of a lunatic does not exceed seven hundred pounds in value, or that the income thereof does not exceed fifty pounds per annum, he may order (if he thinks fit) that no fee shall be taken, or percentage levied, in relation to the proceedings in the matter or the property, as from the date of the order or such other time as he directs, during the continuance of the lunacy or until further order.

Inquiries as to next-of-kin, &c.—As to omitting inquiries in such cases, see Rules in Lunacy, 1892, Rule 36, p. 642.

149. [*Extent of power to fix percentage and fees.*]

This section has been entirely repealed by section 29 and Schedule of the Lunacy Act, 1891. See now section 27 (3) of that Act, *post*, p. 487.

Section 148.

NOTE.

PART V.

THE COMMISSIONERS IN LUNACY.

Constitution of the Commission.

Sections 150 to 161 have been repealed by the Mental Deficiency Act, 1913, section 65 (3), *post*.

Section 150. **150.** (1.) *(There shall continue to be Commissioners in Lunacy, and such of them as are qualified for appointment by being medical practitioners or barristers, shall be entitled to receive salaries.)*

The Commissioners in Lunacy.

In their sixty-eighth report the Commissioners in Lunacy say (p. 1 *et seq.*):—

“On the coming into operation of the Mental Deficiency Act, 1913, on the 1st April, 1914, the Commissioners in Lunacy as such cease to exist. Under section 22 of the Act there is constituted a Board of Control of not more than fifteen Commissioners, of whom not more than twelve are to be paid Commissioners, four are to be legal, *i.e.* practising barristers or solicitors of at least five years’ standing, and four at least are to be medical, *i.e.* duly qualified medical practitioners of at least five years’ standing, while at least one of the paid and one of the unpaid Commissioners is to be a woman. The Commissioners will be appointed by His Majesty on the recommendation, as respects the Legal Commissioners, of the Lord Chancellor, and as respects the other Commissioners, of the Secretary of State, who must appoint one to be a Chairman. The Chairman and paid Commissioners hold office during His Majesty’s pleasure, the unpaid Commissioners being appointed for such term as the Secretary of State may determine. While the existing unpaid Commissioners go out of office, the existing paid Commissioners become *ex officio* Commissioners of the Board of Control upon the same tenure as before the Act.

“All the powers and duties of the Commissioners in Lunacy under the Lunacy Acts, 1890—1911, are to be transferred to the Board of Control, and the existing staff of the Commissioners in Lunacy will become members of the staff of the Board of Control. His Majesty may by Order in Council direct that anything which under the Lunacy Acts is required or authorised to be done by, to, or in respect of, any one or more Commissioners in Lunacy, or any officer of those Commissioners, shall be done by, to, or in respect of one or more Commissioners of the Board of Control, or the corresponding officer of the Board, with the reservation that

nothing by the Lunacy Acts required to be done by two Commissioners, one a medical and the other a legal Commissioner, shall be authorised by the Order to be done otherwise than by a medical and a legal Commissioner of the Board of Control. Section 150.

NOTE.

“From 1st April, 1914, sections 150—161 of the Lunacy Act, 1890, are repealed.”

By the Statutory Rules and Orders, 1914, No. 408, the powers previously exercised by the Lunacy Commissioners, were transferred to the Commissioners of the Board of Control.

The following is the text of the Order :—

(a) ORDER IN COUNCIL UNDER SECTION 65 OF THE MENTAL DEFICIENCY ACT, 1913 (3 & 4 GEO. 5, c. 28), AS TO THE TRANSFER OF POWERS AND DUTIES OF THE COMMISSIONERS IN LUNACY AND THEIR OFFICERS TO THE COMMISSIONERS AND OFFICERS OF THE BOARD OF CONTROL.

At the Court at Buckingham Palace, the 9th day of March, 1914.

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas by Section 22 of the Mental Deficiency Act, 1913, a Board of Control (in the said Act referred to as “the Board”) has been constituted ;

And whereas by Section 65 of the said Act it is enacted that “all the powers and duties of the Commissioners in Lunacy under the Lunacy Acts, 1890 to 1911, shall, as from the commencement of this Act, be transferred to the Board, and His Majesty may, by Order in Council, direct that anything which under those Acts is required or authorised to be done by, to, or in respect of, any one or more Commissioners in Lunacy or any Officer of those Commissioners, shall be done by, to, or in respect of, one or more Commissioners under this Act, or the corresponding Officer of the Board :

“Provided that nothing in such Order in Council shall authorise anything by those Acts required to be done by two Commissioners, one a medical practitioner and the other a barrister, to be done otherwise than by two Commissioners, one a medical and the other a legal Commissioner, but the Order may provide that, in the case of the temporary illness or disability of a legal or medical Commissioner, the Lord Chancellor or the Secretary of State (as the case may be) may appoint a person qualified to be a legal or medical Commissioner to act as substitute so long as the illness or disability continues” :

Now, therefore, His Majesty, by and with the advice of His Privy Council, and by virtue of the authority committed to Him by the Mental Deficiency Act, 1913, and of all other powers enabling Him in that behalf, is pleased to order, and it is hereby ordered, as follows :—

As from the commencement of the Mental Deficiency Act, 1913, hereinafter called “the Act”

(a) For the sake of convenience this order is also set out at the commencement of Appendix II.

Section 150.

NOTE.

1. Save as hereinafter provided, anything which under the Lunacy Acts, 1890 to 1911, is required or authorised to be done by, to, or in respect of any one, or more than one, or any specified number of Commissioners in Lunacy shall be done by, to, or in respect of any one Commissioner or any number of the Commissioners under the Act; and anything which is required or authorised to be done by, to, or in respect of any Officer of the Commissioners in Lunacy shall be done by, to, or in respect of a corresponding Officer of the Board; and the Secretary or any Assistant Secretary to the Board shall be deemed to be an Officer corresponding to the Secretary to the Commissioners in Lunacy.

Provided as follows :—

- (1) Where by the Lunacy Acts, 1890 to 1911, any such thing is in the alternative required or authorised to be done by, to, or in respect of the Commissioners in Lunacy nothing in this Order contained shall be construed to prevent its being done by, to, or in respect of, the Board.
- (2) Where, by the Lunacy Acts, 1890 to 1911, anything is required or authorised to be done by, two or not less than two, or by two or more, of the Commissioners in Lunacy, one of whom is required to be a medical practitioner or medical Commissioner in Lunacy and one to be a barrister or legal Commissioner in Lunacy, the Commissioners under the Act doing any such thing shall be or shall include one medical and one legal Commissioner.

2. In the case of the temporary illness or disability of a legal or medical Commissioner under the Act, the Lord Chancellor or the Secretary of State (as the case may be) may appoint a person qualified to be a legal or medical Commissioner to act as substitute as long as the illness or disability continues; and such substitute while he so acts shall be deemed to be a legal or medical Commissioner (as the case may be) under the Act for the purposes of this Order.

3. If a medical or legal Commissioner under the Act, after resigning his office, is appointed an unpaid Commissioner, he may upon the request of the Board perform any duty under the Lunacy Acts, 1890 to 1911, which he might have performed before his resignation, and shall be deemed in respect of any duty he is so requested to perform to be a medical or legal Commissioner (as the case may be) under the Act for the purposes of this Order.

Almeric FitzRoy.

(2.) (*The salaries of the paid Commissioners and the expenses of the Commissioners to the amount sanctioned by the Treasury, shall be paid out of moneys provided by Parliament.*)

(3.) (*A Commissioner shall not, so long as he remains Commissioner and receives any salary in respect of his office, accept, hold, or carry on any other office or situation, or any profession or employment, from which any profit is derived.*)

Offences.—Wilful disregard of the provisions of this sub-section will be a misdemeanor punishable on indictment by fine and imprisonment: *Rex v. Sainsbury* (1791), 4 T. R. 451.

151. (1.) (*As often as a Commissioner dies, or is removed from his office, or is disqualified, or resigns, or refuses or becomes unable through illness or otherwise to act, the Lord Chancellor may appoint a person to be Commissioner in his place.*) Section 151.
Vacancies among the Commissioners may be filled.

(2.) (*Every person appointed in the place of a medical practitioner shall be a medical practitioner, and every person appointed in the place of a barrister shall be a practising barrister of not less than five years' standing, and every person appointed in the place of any other Commissioner shall be neither a medical practitioner nor a practising barrister. Provided that a medical or a legal Commissioner may upon resigning his office be appointed to fill any vacancy among the unpaid Commissioners, and if so appointed he may, upon the request of any four of the Commissioners, perform any duty which he might have performed before his resignation. Provided also that the secretary for the time being of the Commissioners shall be eligible to be a Commissioner in the place of a barrister.*) [Legal and medical commissioners.]

(3.) (*In case of the temporary illness or disability of a medical or legal Commissioner, the Lord Chancellor may, on the recommendation of the Commissioners, appoint a person qualified to be a medical or legal Commissioner to be his substitute so long as the illness or disability continues, and the substitute may exercise all the powers of the person for whom he acts.*) [Temporary substitutes.]

(4.) (*The Commissioners for the time being may act notwithstanding any vacancy in their body.*) [Effect of vacancy.]

(5.) (*Every Commissioner hereafter appointed shall, before he acts as Commissioner, make before the Lord Chancellor, or before any three Commissioners qualified to act, the declaration to be made by a Commissioner set forth in the First Schedule.*) [Declaration by commissioners.]

Lawful Authority.—As to what is meant by “legal authority” requiring a Commissioner to divulge matters which he is otherwise required by his declaration to keep secret, see *Hill v. Philp* (1852), 7 Exch. 232; 21 L. J. Ex. 82; 16 Jur. 90.

152. (1.) (*All licences, orders, and instruments granted or made, or issued, or authorised by the Commissioners, in pursuance of this Act, except such orders or instruments as are to be made or signed and sealed by one Commissioner or two or more Commissioners, shall be sealed with the seal of the Commission.*) Licences and instruments to be sealed.

Section 152. (2.) (*All such licences, orders, and instruments, or copies thereof, purporting to be sealed with the seal of the Commission, shall be received as evidence of the same respectively, and of the same respectively having been granted, made, issued, or authorised by the Commissioners, without any further proof thereof.*)

[No validity without seal.] (3.) (*A licence, order, or instrument, or copy thereof, shall not be valid, or have any force or effect, unless it is so sealed.*)

Appointment of permanent chairman and mode of voting. **153.** (1.) (*There shall be a permanent chairman of the Commissioners.*)

[Vacancy in permanent chairmanship.] (2.) (*If a permanent chairman dies, or declines, or becomes incapable to act as chairman, or ceases to be a Commissioner, the Commissioners, or any five of them at a meeting specially summoned for the purpose, shall select a member of their body, not being a paid Commissioner, to be permanent chairman.*)

[Occasional chairman.] (3.) (*If the chairman is absent from a meeting, a majority of the members present may elect a chairman for that meeting.*)

[Majority to decide.] (4.) (*Questions shall be decided by a majority of votes.*)

[Votes of chairman.] (5.) (*The chairman of the meeting shall have a vote, and in the event of an equality of votes he shall have a casting vote.*)

The secretary to the Commissioners. **154.** (1.) (*There shall be a secretary to the Commissioners.*)

[Removal of secretary.] (2.) (*The secretary for the time being may be removed by the Lord Chancellor on the application of the Commissioners.*)

[Vacancy in secretaryship.] (3.) (*If the office of secretary is vacant, the Commissioners, with the approbation of the Lord Chancellor, may fill the vacancy.*)

[Duties and salary of secretary.] (4.) (*The secretary shall, in the performance of his duties, be subject to the inspection, direction, and control of the Commissioners. His salary shall be of such amount as the Treasury, with the concurrence of the Lord Chancellor, determines.*)

[Qualification of secretary.] (5.) (*Every person appointed secretary shall be a barrister of at least seven years' standing, and shall for all purposes be deemed to be a permanent civil servant of the State.*)

Clerks to Commissioners. **155.** (1.) (*The Commissioners may appoint such number of clerks as the Treasury sanctions.*)

(2.) (*The clerks to the Commissioners shall be paid such salaries as the Treasury assigns. The salaries of the Commissioners, secretary, and clerks, and their expenses, to the amount sanctioned by the Treasury, shall be paid out of moneys provided by Parliament.*)

156. (*As respects superannuation allowances, the paid Com-* **Section 156.**
missioners and the secretary and clerks shall be subject to the
provisions of the Superannuation Act, 1859, and the Super-
annuation Act, 1887.) Superannua-
 tion allow-
 ances.
 22 Vict. c. 26.
 50 & 51 Vict.
 c. 67.

157. (*Every secretary or clerk shall, before he acts, make*
before any one of the Commissioners the declaration to be made
by the secretary and clerks of the Commissioners set forth in the
First Schedule.) Secretary and
 clerks to
 make a
 declaration.

As to what is meant by "legal authority" requiring the declarant to divulge matters otherwise required to be kept secret, see *Hill v. Philp* (1852), 7 Exch. 232; 21 L. J. Ex. 82; 16 Jur. 90.

158. (1.) (*A person shall not be qualified to be a Commissioner* Disqualifica-
 tion of Com-
 missioners
 and their
 secretary and
 clerks.
or secretary or clerk of the Commissioners if he is, or within one
year prior to his appointment has been, interested in a licensed
house.)

(2.) (*If any Commissioner or the secretary or any clerk of the*
Commissioners becomes interested in a licensed house, he shall be
disqualified to hold his office.)

(3.) (*Any disqualified person continuing to act shall be guilty*
of a misdemeanor.)

Meetings and Procedure.

159. (1.) (*The Commissioners, or some five of them, shall hold* Commis-
 sioners to
 hold meetings
 for granting
 licences.
quarterly meetings at their office, or at such other place as the
Lord Chancellor may direct, on the first Wednesday in the months
of February, May, July, and November in every year, to receive
applications for licences for houses for the reception of lunatics
within the immediate jurisdiction of the Commissioners.)

(2.) (*In case on any such occasion five Commissioners are not*
present the meeting shall take place on the following Wednesday,
and so on weekly until five Commissioners assemble.)

(3.) (*The Commissioners assembled at every such meeting shall*
have power to adjourn the meeting from time to time and to such
place as they think fit.)

(4.) (*Any five of the Commissioners may, at any other time, at*
a meeting duly summoned, receive applications for licences.)

160. (1.) (*If a Commissioner by writing under his hand requires* Provision for
 calling
 meetings.
the secretary to call a meeting of the Commissioners for a purpose
specified in the writing, or for general business, the secretary shall
call a meeting.)

Section 160. (2.) *(The secretary shall give to the Commissioners, or such of them as are in England, and have an address known to the secretary, twenty-four hours' notice of the place, day, and hour of the meeting, and of the purpose for which it is to be held.)*

(3.) *(Any three Commissioners assembled at a meeting shall be a quorum, and shall constitute a board, except where by this Act five Commissioners are required to be present at any meeting.)*

(4.) *(Every meeting shall, as far as circumstances admit, be held at the office of the Commission.)*

Power to
make orders
and rules to
regulate
procedure.

161. (1.) *(The Commissioners or any five of them present at any quarterly or other meeting, may, by resolution sealed with their seal or entered in a book kept for the purpose and signed by five at least of the Commissioners present at the meeting, make orders and rules for regulating the duties of the Commissioners and of their secretary, clerks, and servants, and for the transaction of the business of the Commission.)*

[Notice of
meeting to
make rules.]

(2.) *(The secretary shall give to each Commissioner, so far as circumstances admit, not less than seven days' notice of a meeting for the purpose of making orders or rules, and shall state in the notice the purpose of the meeting.)*

Reports and Records.

Reports to
be made to
the Lord
Chancellor.

162. (1.) The Commissioners shall, at the expiration of every six months, report to the Lord Chancellor the number of visits they have made and the number of patients they have seen.

[Annual
reports.]

(2.) They shall also in or before the month of June in every year, make to the Lord Chancellor a report made up to the end of the preceding year of the condition of the institutions for lunatics, and other places visited by them, and of the care of the patients therein, with such other particulars as they think deserving notice.

[Reports to
be laid before
Parliament.]

(3.) They shall lay copies of the reports to be made under this section before Parliament within one month after the same have been made if Parliament is then sitting, and, if not, within twenty-one days after the commencement of the next session.

PART VI.

VISITORS OF LUNATICS.

The Chancery Visitors.

163. (1.) There shall continue to be medical and legal visitors of lunatics so found by inquisition, and they are in this Act referred to as the Chancery Visitors. **Section 163.**

The visits to lunatics "so found" have now been extended in several instances to cases where a receiver has been appointed under section 116, *ante*. Appointment and qualification of Chancery Visitors.

(2.) The Lord Chancellor may, when a vacancy occurs in the office of medical visitor or legal visitor, appoint, by writing under his hand, a fit person, being a medical practitioner in actual practice, to succeed a medical visitor, and a fit person, being a barrister of not less than five years' standing, to succeed a legal visitor.

(3.) The visitors shall have such clerks and officers as the Lord Chancellor may, with the concurrence of the Treasury as to number and salaries, determine.

(4.) The salaries of the Chancery Visitors, their clerks and officers, and their expenses to the amount sanctioned by the Treasury, shall be paid out of moneys provided by Parliament.

164. The Chancery Visitors may be removed by the Lord Chancellor in case of misconduct or neglect in the discharge of their duties, or of their being disabled from performing the same, and they shall not be engaged in the practice of their respective professions. Tenure of office by Chancery Visitors.

165. A person shall not be appointed a Chancery Visitor if he is or has been within the two years preceding his appointment directly or indirectly interested in any licensed house; and if any person after his appointment becomes so interested, his appointment shall become void, and thereupon his salary shall cease. Visitors not to be interested in licensed houses.

Section 166. **166.** The Masters for the time being shall by virtue of their office be visitors of lunatics so found by inquisition, jointly with the Chancery Visitors.

Masters to be
ex officio
visitors.

The Visitors
and Masters
to form a
board.

167. (1.) The Chancery Visitors and the Masters, or so many of them, not being less than three in number, as may from time to time be able, consistently with the discharge of their other duties, to attend, shall from time to time form themselves into a board for their mutual guidance and direction on matters connected with the visiting of lunatics.

(2.) The Board may report to the Lord Chancellor upon any matter connected with the duties of the Chancery Visitors or of the Board, as they think proper.

Medical or
legal visitor
may appoint
a substitute.

168. (1.) Where a medical or a legal Chancery Visitor is temporarily prevented from discharging his duty by illness or unavoidable absence, but not otherwise, he may, with the approbation of the Lord Chancellor, appoint a medical practitioner in actual practice, or a barrister of not less than five years' standing (as the case may require), to act in his stead during his illness or unavoidable absence.

(2.) The medical practitioner or the barrister so appointed shall, while his appointment remains in force, have, perform, and execute all the powers, duties, and authorities belonging to the office of medical or legal visitor (as the case may be) with full validity and effect to all intents and purposes.

Visiting Committees of Asylums.

Constitution
of visiting
committee.

169. (1.) For every asylum there shall be a visiting committee appointed annually by the local authority, consisting of not less than seven members.

The Local Government Act, 1888, effected a great change in the government of county and borough asylums by the transfer of their management from committees appointed by the justices in quarter sessions to committees appointed by the county and borough councils. As to the powers of visiting committees appointed by county councils, see opinion of law officers, 19th Ann. Report, Local Government Board, Appendix A., No. 6, p. 9.

(2.) The visiting committee of a district asylum shall be constituted of the number of members fixed by the agreement under which the asylum is provided.

(3.) Where there is more than one asylum, the local authority may appoint one committee for the management and control

of all the asylums, and such committee shall appoint a sub-committee for each separate asylum, and may delegate to that sub-committee such powers and duties as the committee from time to time think fit. Section 169.

Lancashire.—In Lancashire, an Asylums Board for the entire county is appointed under sections 3 and 5 of the Lancashire County (Lunatic Asylums, &c.), Act, 1891, *post*, p. 498, and by section 13 of that Act, *post*, p. 501, the Board appoints a visiting committee for each asylum, which may appoint sub-committees.

(4.) Where a county borough has contributed towards the cost of any county asylum, the council of the borough may, if they so desire, appoint to be members of the visiting committee of the asylum such number of members of the council as may be agreed upon, or in default of agreement be determined by the Commissioners under the Local Government Act, 1888, or 51 & 52 Vict. c. 41. after they have ceased to hold office, by arbitration under that Act. Such appointment shall be in substitution for any appointment previously made on the part of the borough.

(5.) Where a borough, not being a county borough, has contributed towards the cost of any county asylum, and the representatives of the borough on the county council are not entitled to vote for the appointment by the council of visitors of the asylum, the council of the borough may appoint two persons to be members of the committee.

Representatives of the borough will not be entitled to vote if the borough is not assessed to county contributions in respect of lunatic asylums, it being provided by section 35 (6) of the Local Government Act, 1888, 51 & 52 Vict. c. 41, that the county councillors elected for an electoral division consisting wholly of such borough (*i.e.*, a quarter sessions borough not being a county borough, but containing, according to the census of 1881, a population of 10,000 or upwards), or of some part of such borough, shall not act or vote in respect of any question arising before the county council as regards matters involving expenditure on account of which the parishes in the borough are not, for the time being, liable to be assessed equally with the rest of the county to county purposes.

(6.) During the continuance of a contract for the reception of the pauper lunatics of a county borough or borough specified in the Fourth Schedule into a county asylum, the council of the borough shall appoint a visiting committee to visit the lunatics sent from such county borough or borough in the asylum.

Section 169. *Reception Contracts.*—As to contracts for the reception of the pauper lunatics of a county borough or borough being a local authority under this Act into a county asylum, see sections 243, 269, *post*, pp. 361, 377.

NOTE.

Duties of Visiting Committee.—As to the duties of the visiting committee appointed under this sub-section, see section 189, *post*, p. 322.

Mode of election of visiting committee.

170. Unless some other day is appointed by the standing orders of the local authority, the visiting committee shall be appointed at the quarterly meeting of the local authority in November.

November Quarterly Meeting.—As to the quarterly meeting in November, see section 75 of the Local Government Act, 1888, 51 & 52 Vict. c. 41, and section 22 and Rule 2 of the Second Schedule of the Municipal Corporations Act, 1882, 45 & 46 Vict. c. 50.

The appointment of visiting committees by a county or county borough council is not affected by the County Councils (Elections) Act, 1891, 54 & 55 Vict. c. 68. See 55 J. P. 796.

The local authority will have before them at the same meeting a report from the outgoing committee on the general condition of the asylum, see section 190, *post*, p. 323.

Lancashire.—As to Lancashire, see section 13 of the Lancashire County (Lunatic Asylums, &c.) Act, 1891, *post*, p. 501.

Vacancies to be filled up.

171. (1.) If a visitor dies or resigns, or becomes incapable or disqualified to act, the authority by whom he was appointed shall, as soon as possible, appoint in his place some qualified person, and the new appointment shall be made in the same manner as the annual election of visitors.

Lancashire.—This section is specially applied to each visiting committee appointed by the Lancashire Asylums Board, see section 13 of the Lancashire County (Lunatic Asylums, &c.) Act, 1891. As to vacancies on the board itself, see sections 7—9 of the same Act, *post*, pp. 499, 500.

(2.) The continuing members of a visiting committee may act notwithstanding any vacancy in the body.

Duration of office.

172. (1.) A visiting committee shall hold office until the first meeting of their successors.

Object of Section.—The object of this section is to prevent any interval from occurring between the going out of office of the old committee and the entry upon the duties of office of the new committee.

Lancashire.—This section is specially applied to visiting committees appointed by the Lancashire Asylums Board; see section 13 of the Lancashire County (Lunatic Asylums, &c.) Act, 1891, *post*, p. 501.

(2.) If default is made in electing a visiting committee the visiting committee last elected shall continue in office as if they had been duly re-elected.

173. The visiting committee of every asylum shall, previously **Section 173.** to the month of June in every year, examine the accounts of the treasurer and clerk of the asylum, and shall report the same to the next meeting of the local authority, or of each local authority to whom the asylum wholly or in part belongs. Examination of accounts.

Accounts of Treasurer and Clerk.—See also as to the accounts of the treasurer and clerk of the asylum, section 278, *post*, p. 387, and as to audit, see section 18 of the Lunacy Act, 1891, *post*, p. 479.

Lancashire.—This section is specially applied to every visiting committee appointed by the Lancashire Asylums Board, see section 13 of the Lancashire County (Lunatic Asylums, &c.) Act, 1891, *post*, p. 501.

174. (1.) A member of a visiting committee shall not be interested either in his own name or in the name of any other person in any contract entered into or work done for the committee, and shall not derive any profit or emolument whatsoever from the funds of the asylum. Members of visiting committee not to be interested.

There are many other statutes providing that members and officers of corporations, boards, and local authorities shall not be interested in contracts made with, by, or on behalf of the corporation, board, or other authority (see especially section 12 of the Municipal Corporations Act, 1882, 45 & 46 Vict. c. 50, applied to county councils by section 2 of the Local Government Act, 1888, 51 & 52 Vict. c. 41), and there are many decided cases on the effect of such enactments. No reported case, however, relates to a member of the visiting committee of an asylum.

Lancashire.—This section is specially applied to every visiting committee appointed by the Lancashire Asylums Board, see section 13 of the Lancashire County (Lunatic Asylums, &c.) Act, 1891, *post*, p. 501. As to members of the board itself, see section 6 of the same Act.

(2.) This provision shall not extend to any interest which a member of a visiting committee may have by reason of his being a shareholder of a company which has entered into any contract with or done any work for the visiting committee, but he shall not be entitled to vote in respect of such contract or work.

175. (1.) The provisions of section eighty-two of the Local Government Act, 1888, with respect to the proceedings of committees of county councils shall apply to the proceedings of every visiting committee appointed wholly or partly by a county council, and the chairman of such committee may be elected accordingly. Meetings of visiting committee.

This sub-section is taken from section 86 (8) of the Local Government Act, 1888, 51 & 52 Vict. c. 41. It does not apply to visiting committees appointed by the Lancashire Asylums Board.

Section 175. *Incorporated Enactments.*—Section 82 of the Local Government Act, 1888, 51 & 52 Vict. c. 41, so far as relates to the present purpose, provides that—

NOTE.

(1.) A county council appointing under this Act any committee may from time to time make, vary, and revoke regulations respecting the quorum and proceedings of such committee, and as to the area (if any within which it is to exercise its authority; and subject to such regulations the proceedings and quorum and place of meeting, whether within or without the county, shall be such as the committee may from time to time direct, and the chairman at any meeting of the committee shall have a second or casting vote.

(2.) Every committee shall report its proceedings to the council by whom it was appointed, but to the extent to which the council so direct, the acts and proceedings of the committee shall not be required, by the provisions of the Municipal Corporations Act, 1882, to be submitted to the council for their approval.

(3.) In the case of a joint committee the councils [and courts] appointing the joint committee shall jointly have the powers given by this section, and the provisions of this section shall apply accordingly.

In addition to the foregoing enactment, section 22 of the Municipal Corporations Act, 1882, 45 & 46 Vict. c. 50, applies to visiting committees appointed by a county council, and, so far as applicable, provides that—

(1.) The rules in the Second Schedule shall be observed.

(2.) . . . The acts of every such committee shall be submitted to the council for their approval.

(3.) A member of the council shall not vote or take part in the discussion of any matter before the committee in which he has, directly or indirectly, by himself or by his partner, any pecuniary interest. (See section 174, *ante*.)

(4.) No act or proceeding of the committee shall be questioned on account of any vacancy in their body. (See sections 171 (2) and 172 (2), *ante*.)

(5.) A minute of proceedings at a meeting of the committee, signed at the same or the next ensuing meeting by a member of the committee describing himself as, or appearing to be, chairman of the meeting at which the minute is signed, shall be received in evidence without further proof.

(6.) Until the contrary is proved, every meeting of the committee, in respect of the proceedings whereof a minute has been so made, shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified; and the committee shall be deemed to have been duly constituted, and to have had power to deal with the matters referred to in the minutes.

Lancashire.—The two last quoted sub-sections are re-enacted with reference to the minutes of the Lancashire Asylums Board by section 12 of the Lancashire County (Lunatic Asylums, &c.) Act, 1891, *post*, p. 500. As to the election of chairman and vice-chairman, and as to the meetings and proceedings of that Board, see section 11 of the same Act, *post*, p. 500.

(2.) To other visiting committees the following provisions **Section 175.** shall apply :—

- (a.) The members of the committee shall within one month after their election meet at some convenient place, to be named in a notice in writing given by two or more of such members, or by the clerk of the outgoing committee by the direction of two or more of such members ;
- (b.) Notices of meetings shall be given to each member personally, or left at his place of abode, or sent by post seven days at least before the time appointed for the meeting ;
- (c.) The members shall at the first meeting elect one of their number to be chairman of the committee ;
- (d.) The chairman shall preside at all meetings at which he is present. In case of his absence from any meeting the members present shall elect one of their number to be chairman of the meeting ;
- (e.) Any meeting may be adjourned from time to time and from place to place ;
- (f.) The committee shall meet as often as they may think fit ;
- (g.) A meeting may be adjourned by two members ; for all other purposes three members shall be a quorum ;
- (h.) Every question shall be decided by a majority of the votes of the members present, and in the event of an equality of votes the chairman shall have a second or casting vote ;
- (i.) The clerk of the committee shall, whenever required in writing by the chairman or any two members of the committee, or by the manager of the asylum, and the chairman may, whenever he thinks fit, summon a meeting of the committee.

Lancashire.—This sub-section is specially applied to every visiting committee appointed by the Lancashire Asylums Board. See section 13 of the Lancashire County (Lunatic Asylums, &c.) Act, 1891, *post*, p. 501.

176. (1.) Every visiting committee shall appoint a clerk (who may also be the clerk to the asylum) at such salary as the committee think fit, and a clerk so appointed may be discharged, and in the event of a vacancy in the office a new clerk may be appointed. The clerk to the visiting committee shall, unless he

Clerk to
visiting com-
mittee.

Section 176. be sooner discharged, continue in office so long as the committee continue in office.

Under the old law it was imperative that a new clerk should be appointed in case of a vacancy, the word "shall" being used, and not "may." Cf. *Julius v. Bishop of Oxford* (1880), 5 App. Cas. 214; 49 L. J. Q. B. 577; 42 L. T. 546; 28 W. R. 726; 44 J. P. 600.

Lancashire.—This section is specially applied to every visiting committee appointed by the Lancashire Asylums Board. See section 13 of the Lancashire County (Lunatic Asylums, &c.) Act, 1891, p. 501. See also section 14 of the same Act, *post*, p. 502.

(2.) A visiting committee may sue and be sued in the name of their clerk, and an action by or against a visiting committee shall not abate by the death or removal of the clerk, but the clerk for the time being shall always be deemed the plaintiff or defendant in the action.

An action may be maintained against the visiting committee in the name of their clerk in respect of a contract within the scope of their authority, although there may be no funds raised out of which to satisfy the claim of the plaintiff. Judgment recovered in such an action may be enforced by *mandamus* or decree for specific performance: *Kendall v. King* (1856), 17 C. B. 483; 25 L. J. C. P. 132.

The case of *Devenish v. Brown* (1856), 26 L. J. Ch. 23; 2 Jur. (N.S.) 1043, is an instance of a suit for specific performance of a contract of sale of land brought against the visiting committee of a county lunatic asylum in the name of their clerk.

See also as to adding parties, *Procter v. Cheshire County Council*, W. N. 1891, p. 24.

Visitors of Licensed Houses.

Justices to
appoint
visitors.

177. (1.) The justices of every county and quarter sessions borough not within the immediate jurisdiction of the Commissioners shall, whether there is a licensed house within the county or borough or not, annually appoint three or more justices, and also one medical practitioner, or more, to act as visitors of licensed houses within the county or borough and otherwise for the purposes of this Act.

It will be observed that in accordance with the last-mentioned enactment visitors must be appointed whether there be a licensed house in the county or borough or not. (See 55 J. P. 797.) For although there is no licensed house within the county or borough there may be occasion for the services of the visitors in visiting single patients under section 39 (5), *ante*.

Immediate Jurisdiction.—As to the immediate jurisdiction of the Commissioners, see section 208 (1) and the Third Schedule, *post*, pp. 340, 469.

(2.) The visitors shall at their first meeting make before a justice the declaration required by this Act to be made by a Commissioner, with the necessary modification. Section 177.
[Declaration
by visitors.]

Visitors' Declaration.—As to the declaration formerly required by this Act to be made by the Commissioners, see section 151 (5), *ante*, p. 303, and the form in the First Schedule, *post*, p. 456.

The only necessary modification in the form of declaration is the substitution of the words “as one of the visitors of licensed houses within the county [or borough] of _____,” in the place of the words “as one of the Commissioners in Lunacy.”

(3.) A person shall not be qualified to be a visitor or clerk, or assistant clerk to any visitor, (*sic*) who is or within one year prior to his appointment has been interested in a licensed house. [Visitors and
clerks not to
be interested
in licensed
houses.]

The word “visitor” in the singular is probably a misprint for “visitors” in the plural.

(4.) If a visitor or a clerk or assistant clerk to any visitors becomes interested in a licensed house he shall be disqualified to hold his office. [Disqualifi-
cation by
interest.]

(5.) Any disqualified person continuing to act shall be guilty of a misdemeanor.

(6.) In case of the death, inability, disqualification, resignation, or refusal to act of any visitor, the justices of the county or borough may appoint a visitor in his place. [Vacancies.]

Consent of Recorder.—The consent in writing of the recorder is necessary to the appointment of a visitor by the justices of a borough: see section 180, *post*.

Effect of Vacancy.—There is no provision enabling the remaining visitors to act notwithstanding a vacancy. Vacancies should, therefore, be promptly filled up.

(7.) The annual appointment of visitors shall be made by justices of a county at their Michaelmas quarter sessions, and by justices of a borough at special sessions, to be held in the month of October; other appointments may be made by justices of a county at any quarter sessions and by justices of a borough at special sessions to be held at the same time as any quarter sessions. [Annual ap-
pointments.]

Convening Borough Special Sessions.—The special sessions in a borough to be held in the month of October may be convened at any time within that month which may be appointed by any two justices of the borough sitting at an ordinary petty sessions, and the clerk to the justices should serve notices of the appointed day on all the justices on the commission.

Default of Appointment.—There is no provision for continuing the

Section 177. previous visitors in office, in case the annual appointments are not made or are delayed.

NOTE.

[First ap-
pointments.]

(8.) In any county or borough in which no appointment of visitors has been made before the commencement of this Act the first appointment shall be made, in the case of a county, at the quarter sessions next after the commencement of this Act, and in the case of a borough, at special sessions to be held at the same time as the next quarter sessions.

[Notice of ap-
pointments.]

(9.) The clerk to the justices of a quarter sessions borough shall forthwith notify to the clerk of the peace of the borough the names, places of abode, and occupations or professions of all visitors appointed by the justices.

[List of
visitors.]

(10.) A list of the names, places of abode, and occupations, or professions of all visitors of licensed houses shall, within fourteen days from the date of their appointment, be published by the clerk of the peace of the county or borough for which they are appointed in a local newspaper, and shall, within three days from the date of their appointment, be sent by the clerk of the peace to the Commissioners.

[Defaults
by clerk of
peace.]

(11.) Every clerk of the peace making default in publishing and sending to the Commissioners the list of visitors within the time hereby limited, shall for every default be liable to a penalty not exceeding two pounds.

[Remunera-
tion of
medical
visitor.]

(12.) Every visitor, being a medical practitioner, shall be entitled to such remuneration for services rendered under this Act as the justices of the county or borough may approve.

As to the funds out of which such remuneration is payable, see section 225, *post*.

Clerk to
visitors ;
his duties
and remun-
eration.

178. (1.) The clerk of the peace or some other person to be appointed by the justices for the county or borough shall act as clerk to the visitors.

Consent of Recorder.—The consent in writing of the recorder must be obtained for the appointment of the clerk to the visitors by the justices of a borough: section 180, *post*, p. 317.

Annual Appointment.—The clerk to the visitors must be reappointed annually, and in a borough the consent of the recorder must be annually obtained, for the visitors themselves only hold office for one year: see section 177 (1) and (7), *ante*, pp. 314, 315.

Disqualification.—As to disqualification for the office, see section 177 (3) (4), *ante*, p. 315.

[Declaration
by clerk.]

(2.) The clerk to the visitors shall, at the first meeting of the visitors, make the declaration required by this Act to be made

by the secretary of the Commissioners with the necessary **Section 178.** modification, such declaration to be made before one of the visitors, being a justice.

Clerk's Declaration.—As to the declaration formerly required by this Act to be made by the secretary to the Commissioners, see section 157, *ante*, p. 305, and the First Schedule, *post*, p. 456.

The only necessary modification of the form of declaration will be the substitution of the words “clerk to the visitors of licensed houses for the county [or borough] of _____,” in the place of the words “secretary of the Commissioners in Lunacy.”

(3.) The name, place of abode, occupation, and profession of the clerk to the visitors (whether he is the clerk of the peace or any other person), shall, within fourteen days after the appointment, be published by the clerk of the peace for the county or borough in some local newspaper, and shall within three days from the date of the appointment be communicated by the said clerk of the peace to the Commissioners. [Publication of appointment.]

(4.) Every clerk of the peace making default in either of the respects aforesaid shall for every such default be liable to a penalty not exceeding two pounds. [Penalty for default.]

Recovery of Penalty.—As to the recovery of the penalty, see section 326, *post*, p. 436.

(5.) Every clerk to the visitors shall be allowed such salary or remuneration for his services as the justices for the county or borough direct. [Clerk's salary.]

As to the fund out of which the salary is to be paid, see section 225, *post*, p. 345.

179. (1.) If the clerk to any visitors at any time desires to employ an assistant in the execution of the duties of his office, he shall certify his desire and the name of the assistant to one of the visitors, being a justice. Provision for assistants to the clerk of the visitors.

As to disqualifications for the post of assistant clerk, see section 177 (3) (4), *ante*, p. 315.

(2.) If the visitor approves of the assistant, the assistant shall make before the visitor the declaration to be made by assistants to the clerk to the visitors in the First Schedule. (Declaration by assistant clerk.)

(3.) Thereafter the clerk may, at his own cost, employ the assistant. [Payment of assistant.]

180. A visitor or clerk shall not be appointed by the justices of a borough without the consent in writing of the recorder of the borough. Consent of recorder.

Section 181. **181.** (1.) The visitors shall meet at such times and places as they may think proper.

—
Meetings of
visitors.

(2.) The clerk to the visitors shall, upon the direction of any two visitors, call a meeting of the visitors at such time and place as the two visitors may appoint.

(3.) The times and places of meetings shall be kept secret, and each meeting shall be held privately and so that no manager or person interested in or employed about or connected with any house to be visited shall have notice of any intended visit.

Payment of
expenses of
visitors of
licensed
houses.

182. The expenses incurred by or under the order of any visitors of licensed houses in proceedings under this Act shall be paid out of the county or borough fund.

Proceedings.—As to proceedings under this Act, see section 325, *post*, p. 435.

PART VII.

VISITATION.

Duties of Chancery Visitors.

183. (1.) The Chancery Visitors shall visit lunatics so found Section 183.
by inquisition at such times, and in such rotation and manner,
and make such inquiries and investigations as to their care and Duties of
Chancery
Visitors.
treatment and mental and bodily health, and the arrangements
for their maintenance and comfort, and otherwise respecting
them, as the Rules in Lunacy, or as any special order of the
Judge in Lunacy in any particular case, shall from time to time
direct.

Officials of Institutions and persons having charge of patients in single care, should give at least 48 hours' notice of a change of residence of lunatics "so found," to the Secretary to the Lord Chancellor's Visitors' Office, Royal Courts of Justice, Strand.

The visits are not confined to lunatics so found. There are a large number of persons of unsound mind for whom a receiver has been appointed under section 116, *ante*, who are placed upon the list by the Master, to be visited and reported upon by the Chancery Visitors.

(2.) Provided that every lunatic shall be personally visited and seen by one of the Chancery Visitors twice at least in every year, and such visits shall be so regulated as that the interval between successive visits to any such lunatic shall in no case exceed eight months.

(3.) Provided also, that every lunatic resident in a private house shall, during the two years next following inquisition, be visited at least four times in every year.

184. (1.) The Chancery Visitors shall also visit such persons Chancery
Visitors
to visit
alleged
lunatics.
alleged to be lunatics, and shall make such inquiries and reports
in reference to them as the Judge in Lunacy directs, and at the
expiration of every six months they shall report to the Lord
Chancellor the numbers of visits made, the number of patients
seen, and the number of miles travelled during such months,

Section 184. and shall on the first of January in each year make a return to the Lord Chancellor of all sums received by them for travelling expenses, or upon any other account.

See an instance of an order made under the corresponding provision of the Lunacy Regulation Act, 1862. *Re —, an alleged lunatic* (1881), 18 Ch. D. 26. See also note to section 183, *ante*, p. 319.

Expenses.—The travelling and other expenses of the Chancery Visitors to the amount sanctioned by the Treasury are paid out of moneys provided by Parliament: see section 163 (4), *ante*, p. 307, and Order dated 26th January, 1891, cited in the notes to section 111 (6), *ante*, p. 258.

(2.) A copy of every report and return under this section shall be laid before Parliament on or before the first of February in each year, if Parliament be then sitting, and if not, within twenty-one days next after the commencement of the next session.

Chancery
Visitors to
report to
Lord Chan-
cellor.

185. (1.) The Chancery Visitors shall respectively, within a convenient time after each visit, make a report in writing of the state of mind and bodily health and of the general condition and also of the care and treatment of each person visited, which report shall, annually or oftener, as the Lord Chancellor directs or the board of visitors think expedient, be submitted to the Lord Chancellor.

Reports as to Maintenance.—As to the annual reports to the Lord Chancellor concerning maintenance, see Rules in Lunacy, 1892, Rule 105, *post*, p. 654.

[Special
reports when
expedient.]

(2.) The Chancery Visitors respectively shall make separate or special reports on any case to the Lord Chancellor as and when they or the board of visitors think expedient, and in particular shall report to him, without delay, any instance in which, on proceeding to visit, they have been unable to discover the residence of or have been by any other circumstance prevented from actually seeing on that occasion the lunatic whom they intended to visit.

Obstruction.—As to the punishment for obstructing the Chancery Visitors, see section 321 (1), *post*, p. 431.

Reports to be
kept secret.

186. (1.) The reports of the Chancery Visitors shall be filed and kept secret in their office, and shall not be open to the inspection of any person save the members of the board of visitors, and the Judge in Lunacy and such persons as he specially appoints.

(2.) All the reports relating to any particular patient shall be destroyed on his death, and shall also be destroyed on the inquisition in his case being superseded, or being vacated and discharged on a traverse, unless the Judge in Lunacy, within fourteen days after the supersedeas, or the vacating and discharge on a traverse, specially orders that the same be not destroyed until the lunatic's death. Section 186.

Even if the reports relating to any particular patient should not have been destroyed on his death in accordance with this sub-section, they must be treated as having been destroyed, and no Chancery Visitor can be required to produce them on a subpoena. *Roe v. Nix*, [1893] P. 55; 62 L. J. P. & M. 36; 68 L. T. 26.

Lunatics in Asylums.

187. (1.) Two or more Commissioners, of whom one shall be a medical practitioner, and one a barrister, shall once at least in each year visit every asylum and shall inquire— Visits by
Commis-
sioners.

(a.) Whether the provisions of the law have been carried out;

(i.) As to the construction of the building;

(ii.) As to visitation;

(iii.) As to management;

(iv.) As to the regularity of the admission and discharge of patients;

(b.) Whether Divine service is performed;

(c.) Whether any system of coercion is practised, and its result;

(d.) As to the classification of patients and the number of attendants on each class;

(e.) As to the occupations and amusements of the patients, and their effects;

(f.) As to the bodily and mental condition of the pauper patients when first admitted;

(g.) As to the dietary of pauper patients;

(h.) As to such other matters as to the visiting Commissioners seem fit.

Construction of the Building.—Under this head the Commissioners investigate particularly the precautions taken against fire. See 38th Rep., p. 67, and Appendix (M.).

Occupations and Amusements.—With regard to amusements very much is done to break the monotony of asylum life. Out-door sports and games, occasional excursions and picnics, are everywhere encouraged,

Section 187. while in-doors, especially in the winter months, dances, theatrical performances, readings, magic lantern lectures, and the like are commonly arranged with more or less variety and frequency.

NOTE.

On the occasion of their annual visits it is the practice of the Commissioners to see every patient actually resident. They are under no statutory obligation to do this, in the case of asylums, though it is required in the case of hospitals and licensed houses. (See section 194 (1) (b), *post*, p. 326.) The Commissioners ascertain, by checking the name from lists prepared in their own office, that all the patients are seen or otherwise accounted for, not by way of testing their fitness for discharge, for the power of discharge belongs to the visiting committee (except as to private patients), and not to the Commissioners, but (amongst other reasons) in order that every patient may be brought directly under the notice of the visiting Commissioners, and have the opportunity of addressing them and stating any grievances under which he may conceive himself to labour. 38th Rep., p. 65; 22nd Rep., p. 68.

Copies of Entries.—It is the duty of the clerk of the asylum, within two clear days after each visit, to send to the office of the Commissioners, copies of all entries and remarks made by any visiting Commissioner or Commissioners at such visit in any of the books of the asylum: Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 24.

[Powers of single visiting Commissioners.]

(2.) Any one or more of the Commissioners may at any time visit any asylum with the like powers as are by this section given to two or more Commissioners.

Visits by visiting committee.

188. At least two members of the visiting committee shall together, once at least in every two months, inspect every part of the asylum, and see every patient therein, so as to give everyone, as far as possible, full opportunity of complaint, and examine the order and certificate or certificates for the admission of every lunatic admitted since the last visitation and the general books kept in the asylum; and shall enter in the visitors' book any remarks they think proper in regard to the condition and management of the asylum and the lunatics therein, and shall sign the book upon every visit.

Visits to lunatics received under a contract.

189. (1.) During the continuance of a contract for the reception of the pauper lunatics of a county borough or other borough in a county asylum not less than two members of the visiting committee of the borough appointed for the purpose shall together, at least once in every six months, visit the asylum and see and examine the lunatics received under the contract, and shall report the result of their visit to the council of the borough.

Contracts for Reception.—As to the contracts for the reception of pauper lunatics here referred to, see sections 243, 269, *post*, pp. 361, 377.

(2.) The visitors may, if they think fit, be accompanied by a medical practitioner who is not an officer of the asylum, and they may by order direct payment to such medical practitioner of such a sum as they think fit for his services, and such sum shall upon the production of the order be paid to the medical practitioner by the treasurer of the borough. Section 189.

Remuneration of Medical Practitioner.—As to the fund out of which these payments will be made, see section 225, *post*, p. 345.

(3.) Every report under this section shall be entered among the records of the council of the borough, and may be inspected by the Commissioners, and the Commissioners may, if they think fit, require the town clerk of the borough to transmit to them a copy of any such report.

Default by Town Clerk.—As to the penalty for default in transmitting the copy of any report which may be required by the Commissioners, see section 320, *post*, p. 343.

190. (1.) The visiting committee of every asylum shall in every year lay before each local authority to which the asylum belongs, at their quarterly meeting in November, or at such other time as the local authority appoints, a report in writing of the state and condition of the asylum, and as to its sufficiency to provide the necessary accommodation, and as to its management and the conduct of the officers and servants and the care of the patients therein. Reports by
visiting
committee.

Copy Report for Commissioners.—A copy of this report must be sent to the Commissioners in Lunacy by the clerk to the visiting committee within twenty-one days after it has been laid before the local authority: see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 30, p. 537.

November Quarterly Meeting.—As to the quarterly meeting of the local authority in November, see section 75 of the Local Government Act, 1888, 51 & 52 Vict. c. 41, and section 22 and Schedule II., Rules 1, 2, of the Municipal Corporations Act, 1882, 45 & 46 Vict. c. 50.

Unless some other day has been appointed the new visiting committee will be elected at the same meeting: see section 170, *ante*, p. 310.

(2.) The committee may in the report make such remarks in relation to any matters connected with the asylum as they think fit.

Lunatics in Hospitals and Licensed Houses.

191. (1.) Every hospital and licensed house may at any time, by day or night, be visited by any one or more of the Commissioners. Visits of
the Commis-
sioners to
licensed
houses and
hospitals.

Section 191. (2.) Every licensed house within the immediate jurisdiction of the Commissioners shall be visited six times a year (namely)—

[Visits to metropolitan licensed houses.]

(a.) Four times by not less than two Commissioners, of whom one shall be a medical practitioner and one a barrister; and

(b.) Twice by one or more of the Commissioners.

Immediate Jurisdiction.—As to the immediate jurisdiction of the Commissioners, see section 208 (1), and the Third Schedule, *post*, pp. 340, 469.

[Visits to provincial licensed houses.]

(3.) Every licensed house not within the immediate jurisdiction of the Commissioners shall be visited twice a year by not less than two Commissioners, of whom one shall be a medical practitioner and one a barrister. (a)

[Visits to hospitals.]

(4.) Every hospital shall be visited once a year by not less than two Commissioners, of whom one shall be a medical practitioner and one a barrister. (a)

In 1880 the Commissioners in Lunacy thought that, considering the increased number of private patients received at some of the registered hospitals, it was desirable that their visits should no longer be confined to the statutory minimum of a yearly inspection. They, therefore, resolved that until further order all registered hospitals (except the two at Earlswood and Lancaster Royal Albert Asylum) should be visited twice instead of once a year: 35th Report, p. 106.

[Visits to be without notice.]

(5.) The visits of the Commissioners shall be made without previous notice.

[Times of visits.]

(6.) Every visit shall be made on such day or days, and at such hours, and for such length of time, as the visiting Commissioners or Commissioner may, subject to any direction of the Commissioners, think fit.

[Special remission of visits.]

(7.) The Lord Chancellor, on a representation by the Commissioners setting forth the expediency of the alteration, may by writing under his hand direct that during a specified period, or until the direction is revoked, the Commissioners shall not be required—

(a.) To visit a house licensed by justices more than once a year;

(b.) To visit a house licensed by the Commissioners and not receiving pauper patients more than twice a year.

Inspection licence.

192. The visiting Commissioners at their first visit to a house licensed by justices after the grant or renewal of the licence

(a) See section 22 (1) of the Mental Deficiency Act, 1913, as to solicitors, *post*, p. 780.

shall examine the licence, and if the same is in conformity with Section 192. this Act shall sign the same, or if it is informal shall enter in the visitors' book in what respect it is informal.

Copies of Entries.—It will be the duty of the manager of the licensed house, in case any such entry is made in the visitors' book, to send a copy of such entry to the office of the Board of Control and also to the clerk of the visitors, within two clear days after the date of the visit: Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 24.

193. (1.) Every licensed house within the jurisdiction of visitors appointed by justices may at any time, by day or night, be visited by one or more of the visitors. Visits of visitors to licensed houses.

(2.) Every such house shall be visited—

- (a.) Four times a year by not less than two of the visitors, of whom one shall be a medical practitioner; and
- (b.) Twice a year by one or more of the visitors.

Statutory Heads of Inquiry.—With the view of assisting the visitors of provincial licensed houses in the performance of their duties on inspecting these establishments, the Commissioners in Lunacy, immediately after the Michaelmas sessions of 1877, issued a card enumerating the chief points of statutory and other inquiry. This was accompanied by a covering letter, addressed to the clerks of the visitors (see 32nd Annual Report, p. 88; and Appendix Q.), stating that a similar summary had long been in use by the Commissioners themselves, and they thought that the visitors, especially such gentlemen as might have been appointed for the first time, might find the enclosed card of service in directing (though not in limiting) those inquiries which experience had found very valuable in the work of improving the condition and treatment of insane patients; and the Commissioners desired the clerk to the visitors to take an early opportunity of placing one of the cards in the hands of each of the visitors. The following is a copy of the card referred to, with such slight modifications as will bring it into accordance with the present Act and Rules:—

VISITATION OF LICENSED HOUSES.

Visits to be made by two at least of visitors (medical visitor to be one) four times at least in every year.

Two additional visits every year by *any* one or more of the visitors.

Chief Statutory Heads of Inquiry at Visits.

1. Divine service: When performed; to what number of patients.
2. Occupations and amusements.
3. Restraint and seclusion: Amount of, and reasons for.
4. Classification of patients.
5. Pauper patients: Condition on admission; dietary.
6. List of patients: Schedule of rates of payment for private patients.
7. Orders and certificates of patients admitted since last visit to be

Section 193. inspected ; licence to be examined and signed at first visit after grant or renewal.

NOTE.

8. Notices as to interviews and letters of private patients [section 42, *ante*].

9. Books to be inspected and signed—

Register of Patients.

Medical Journal.

Register of Mechanical Restraint.

Medical Case Book.

Register of Removals, Discharges, and Deaths.

Patients' Book.

Register of Voluntary Boarders.

Visitors' Book.

10. Entries to be made—

In Visitors' Book, as to condition of house and patients ; number under restraint ; irregularities in orders and certificates ; whether previous suggestions by Commissioners or visitors have been attended to or not ; results of statutory and other inquiries.

[The proportion of patients to attendants, their capacity and conduct, though not a statutory subject of inquiry, is very important.]

In Patients' Book : Observations as to state of mind or body of any patient.

It will be observed that clause 9 of the above directions refers to the books which were kept under the old Rules. See now Commissioners' Rules, 31st October, 1906, *post*, p. 556.

Inspections
and inquiries.

194. (1.) The visiting Commissioners and visitors shall, at every visit to a hospital and licensed house which they are by this Act required to make, and any one or more of the Commissioners or visitors may at any other visit do all or any of the following things :

(a.) Inspect any or every part of the building where lunatics are received, and every building communicating therewith or detached therefrom, but not separated by ground belonging to any other person, and every part of the ground and appurtenances held, used, or occupied therewith :

(b.) See every patient and inquire whether any patient is under restraint, and why :

(c.) Inspect the order and certificates or certificate for every patient received since the last visit :

(d.) Consider the observations made in the visitors' book :

(e.) Enter in the visitors' book a minute of the condition of the house, of the patients therein, and the number of patients under restraint, with the reasons thereof :

(f.) Inquire—

Section 194.
—

When Divine service is performed, and to what number of patients, and its effect ;

What occupations and amusements are provided for the patients, and the results thereof ;

How the patients are classified ;

As to the condition of the pauper patients when first admitted ;

As to the diet of the pauper patients ;

As to the moneys paid to the manager on account of any lunatic under his care ;

As to such other matters as may in their opinion require investigation.

Inspection of Building.—As to the duty of the manager to show the building, see section 195, *post*, p. 328.

Seeing Patients.—As to the duty of the manager to show the patients, see section 195, *post*, p. 328.

Inspection of Orders and Certificates.—As to the duty of the manager to produce orders and certificates, see section 196, *post*, p. 328.

Entries in Visitors' Book.—As to the production of the visitors' book, see section 196, *post*, p. 328.

Inquiries as to Diet of Pauper Patients.—As to the regulation of the diet of pauper patients, see section 52, *ante*, p. 213.

Moneys paid to the Manager.—As to exemptions from income tax under the Income Tax Act, 1842, Schedule A., Rule 6, and from inhabited house duty under 48 Geo. 3, c. 55, Schedule B., case 4, where institutions are partly supported out of charitable funds and partly by payments from private patients, and there is a profit on a given year, see *Cawse v. Notting-ham Lunatic Hospital*, [1891] 1 Q. B. 585 ; 60 L. J. Q. B. 485 ; 65 L. T. 155 ; 39 W. R. 461 ; 55 J. P. 582 ; *Needham v. Bowers* (1888), 21 Q. B. D. 436 ; 59 L. T. 404 ; 37 W. R. 125, and as to assessment under the Income Tax Act, 1842, s. 105, and Schedule D. (Profits), see *St. Andrew's Hospital, Northampton v. Shearnsmith* (1887), 19 Q. B. D. 624 ; 57 L. T. 413 ; 35 W. R. 811.

(2.) The result of the foregoing inspections and inquiries, with such observations as may be thought proper, shall be entered in the visitors' book.

(3.) Each visiting Commissioner or visitor may at any visit enter in the patients' book such observations as he thinks fit as to the state of mind or body of any patient, and any irregularity which exists in any order or certificates, and also whether the suggestions (if any) made at any previous visit have been attended to, and any observations which may be thought proper.

Section 195. **195.** (1.) The manager of every hospital or licensed house shall show to each Commissioner and visitor visiting the same every part thereof, and every person therein detained as a lunatic.

(2.) Every manager of a hospital or licensed house who conceals or attempts to conceal, or refuses or wilfully neglects to show, any part of the building, or any building communicating therewith or detached therefrom, but not separated as aforesaid, or any part of the ground or appurtenances held, used, or occupied therewith, or any person detained, or being therein, from any one or more of the visiting Commissioners or visitors, or from any person authorised under this Act to visit and inspect the hospital or house, or the patients therein, or any of them, or who does not give full and true answers to the best of his knowledge to all questions which any existing Commissioner or visitor asks in the execution of his office, shall be guilty of a misdemeanor.

Books and documents to be produced to visiting Commissioners and visitors. **196.** (1.) The manager of every hospital or licensed house shall lay before the visiting Commissioners or Commissioner, or the visitors or visitor, at each visit—

- (a.) A list of all the patients then in the hospital or house (distinguishing pauper patients from other patients, and males from females, and specifying such as are deemed curable) :
- (b.) The several books by this Act or any rules under this Act required to be kept by the manager and by the medical officer of a hospital or licensed house :
- (c.) All orders and certificates relating to patients admitted since the last visit :
- (d.) In the case of a licensed house the license then in force :
- (e.) All other orders, certificates, documents, and papers relating to any of the patients at any time received into the hospital or licensed house which may be required to be produced.

(2.) Each visiting Commissioner or visitor shall sign the said books as having been produced.

There are in all eight visits a year by the Board of Control to licensed houses within their immediate jurisdiction. Upon the occasion of six of these visits the visitors require from the manager statistics as to the numbers of admissions, discharges, deaths, recoveries, etc., since the last visit, also returns of any seclusion or mechanical restraint, serious injuries

to patients, and in the case of there having been an inquest, full details thereof. Returns are also on occasions required as to the patients' occupation and amusement, and as to the number of the staff, and as to the dismissal of any member thereof. Section 196.

NOTE.

Once a year the report which is made in the Visitors' Book is reproduced in the Annual Report of the Commissioners in Lunacy.

197. (1.) Every Commissioner visiting a house licensed by justices shall carefully consider and give special attention to the state of mind of any patient, as to the propriety of whose detention there is a doubt or as to whose sanity their attention is specially called, and shall, if the state of mind of such patient is considered doubtful, and the propriety of his detention requires further consideration, make and sign a minute thereof in the patients' book. Entries in the patients' book as to doubtful patients.

Commissioners' Powers of Discharge.—As to the powers of two Commissioners to discharge a patient detained without sufficient cause, see section 75, *ante*, p. 229.

(2.) A copy of every such minute shall, within two clear days after the same has been made, be sent by the manager of the house to the clerk of the visitors of the house, and the clerk shall forthwith communicate the same to the visitors, or some two of them (of whom one shall be a medical practitioner), and the visitors shall thereupon immediately visit the patient and act as they think fit.

(3.) Every manager who omits to send a copy, as hereinbefore directed, of every such last-mentioned minute, and every clerk who neglects to communicate the same to two of the visitors as aforesaid, shall be guilty of a misdemeanor.

Visits to Single Patients.

198. One or more of the Commissioners shall once at least in every year visit every unlicensed house in which a single patient is detained as a lunatic and inquire into and report to the Commissioners on the treatment and state of bodily and mental health of the patient. Annual visit to single patient.

The visitation of single patients prior to 1845 could not take place without a special order from the Lord Chancellor or Secretary of State, but was after that date carried out at the discretion of the Commissioners, who were not previously to the present Act compellable, but were at liberty, to visit such patients at all reasonable times. Their practice was to make one annual visit at least to every single patient on their register,

Section 198. repeating the visit where circumstances rendered it desirable to do so.

NOTE.

In 1881, however, the Commissioners decided that, until further order, the rule should be that one visit should be made in every six months to each single patient, except in cases of long standing, the circumstances of whose care and treatment were well known to the Commissioners and were thoroughly satisfactory. 36th Report, p. 155. And the present enactment renders one visit a year at least absolutely necessary.

Power to
visit single
patients and
report.

199. (1.) Any one Commissioner, on the direction of the Commissioners, or of any two of them (of whom the one Commissioner may be one), may at all reasonable times visit a single patient, and inquire into and report to the Commissioners or the Lord Chancellor on the treatment and state of health, both bodily and mental, of the patient, and as to the moneys paid on his account.

(2.) Any one or more of the visitors appointed for any county or borough shall, upon the request in writing of the Commissioners, or any two of them, have the like power as regards any single patient detained in an unlicensed house in such county or borough.

(3.) Upon every visit under this section the medical journal shall be produced to the person making the visit, and he shall sign the same.

Medical Journal.—As to the medical journal in the case of single patients, see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 16, and 31st October, 1906, Rule 1 (3), *post*, pp. 532, 556.

(4.) Every report under this section shall be kept by the secretary of the Commissioners, and a copy thereof shall, if the Commissioners think it expedient, be laid before the Lord Chancellor.

Power to
inspect.

200. (1.) Any Commissioner visiting an unlicensed house may inspect any part of the house and the grounds belonging thereto.

(2.) If the person having charge of a single patient refuses to show to any Commissioner, at his request, any part of the house wherein the single patient resides, or any part of the grounds belonging thereto, he shall be guilty of a misdemeanor.

Obstructing Commissioners.—See also as to obstructing the Commissioners, section 321 (1), *post*, p. 431.

Visits to Paupers in Certain Cases.

Section 201

201. (1.) A medical practitioner appointed by the guardians of a union, and also the guardians of any union shall be permitted, whenever they see fit, between eight in the morning and six in the evening, to visit and examine any pauper lunatic chargeable to the union confined in any institution for lunatics, unless the medical officer of the institution delivers to the person or persons intending to make the visit a statement signed by him certifying that for the reasons set forth in the statement the visit would be injurious to the lunatic.

Visits to
paupers in
institutions
for lunatics.

Numbers and Expenses of Visiting Guardians.—By the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 29, the manager of every asylum is required once at least in every half-year to send to the guardians of every union (which includes a parish under a separate board of guardians), a statement of the mental and bodily condition of every pauper lunatic chargeable to the union. This return will enable the guardians to determine whether they should exercise the power conferred by this section. In a Circular Letter, dated 15th December, 1862, the Poor Law Board recommended, with reference to the corresponding consolidated enactments, that, as a general rule, a committee of three, or at most five, guardians would be sufficient for the contemplated examination. And by General Orders, dated 27th June, 1870, and 2nd January, 1871, the Board empowered their auditors to allow the reasonable costs, properly verified, of such deputations to the extent of three members, together with the clerk, as a charge upon the common fund.

Powers of Visiting Guardians.—Upon a question raised between the Sculcoates Guardians and the Hull Borough Asylum in 1866, the Law Officers were of opinion that under the corresponding earlier enactment the guardians were empowered to visit the pauper patients belonging to their union in the apartments and places where they dwell in the asylums, and are entitled to inquire into the treatment, means of subsistence, comforts, and requisites of such patients, as far as such particulars can be ascertained from the personal visits to and examination of the patients themselves in their wards and apartments. 20th Rep., p. 16.

(2.) The medical officer shall forthwith enter in the medical journal the reasons set forth in the statement, and shall sign the entry.

202. (1.) Every pauper lunatic not in an institution for lunatics shall once in every quarter of a year (reckoning the several quarters as ending on the thirty-first of March, the thirtieth of June, the thirtieth of September, and the thirty-first of December) be visited, if not resident in a workhouse, by the medical officer of the union, or district in which the lunatic is

Visits to
pauper
lunatics
not in an
institution
for lunatics.

Section 202. resident, and, if resident in a workhouse, by the medical officer of the workhouse.

Pauper Lunatic.—By the term “pauper lunatic” is meant every person of unsound mind, and every person being an idiot, who is wholly or partly chargeable to any union, county, or borough. See section 341, *post*. It is not a question to be conclusively determined by the medical officer himself, for the guardians may dispute the point when it comes to payment of the medical officer’s fees, and then the question will have to be decided in a court of law unless one party or the other gives way. 11 Off. Cir. 85; 57 J. P. 126. It is not, however, necessary that the lunatic should be actually chargeable at the date of the visit if he was chargeable at any time previously in the course of the quarter during which the visit is made. 11 Off. Cir. 103.

Duties of Medical Officer.—The medical officer should not, when making his visits, rest satisfied with a mere examination into the personal condition of the patient when visited; his inquiries should extend to the kind of accommodation provided, especially the sleeping room and bedding, the supervision and treatment, restraint, diet, and clothing, and whether the relief given by the relieving officer is sufficient. 14th Rep., p. 88.

(2.) The guardians of every union shall, from time to time, furnish to every medical officer of the union forms for the prescribed returns relating to pauper lunatics not in an institution for lunatics.

Prescribed Returns.—As to the prescribed returns, see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 32, *post*, p. 537.

The cost of these forms in a union are chargeable to the common fund.

(3.) Where a pauper lunatic has, by order of the visiting committee, been delivered over to the custody of a relative or friend to whom an allowance is made for the maintenance of the lunatic, the medical officer of the union or district in which the lunatic resides shall, within three days after each quarterly visit, send to the visiting committee a report stating whether in his opinion the lunatic is properly taken care of, and may properly remain out of an asylum.

(4.) Each medical officer shall be paid two shillings and sixpence for each quarterly visit to a pauper not in a workhouse, and in addition two shillings and sixpence for every report sent to a visiting committee under this section, and those sums shall be paid by the same persons and be charged to the same account as the relief of the pauper.

“Pauper not in a workhouse” means, of course, “pauper lunatic not in a workhouse.” The guardians are not bound to pay the fee in the case of any pauper not being a lunatic. In the case of non-resident paupers the fees are paid by the guardians who give the non-resident relief.

(5.) Nothing in this section shall relieve any medical officer **Section 202.** from any obligation under this Act to give notice to a relieving officer or overseer when it appears to such medical officer that a pauper lunatic ought to be sent to an asylum.

203. Any one or more of the Commissioners shall, on such day **Visitation of workhouses.** or days, and at such hours in the day, and for such length of time as he or they may think fit, visit all such workhouses in which there is or is alleged to be any lunatic, as the Commissioners by any resolution direct, and shall inquire whether the provisions of the law have been carried out, and also as to the dietary, accommodation, and treatment of the lunatics, and shall report in writing thereon to the Commissioners, and the Commissioners shall forward a copy of every such report to the Local Government Board.

Visits of the Commissioners.—The metropolitan district asylums for imbeciles, and workhouses having special lunatic wards, are visited once a year by members of the Board, but the smaller workhouses having no separate accommodation, and where the imbeciles are distributed among the ordinary pauper inmates, are not visited by the Commissioners more frequently than once in three years, unless some special circumstances should call for more frequent visitation. 35th Rep., p. 117.

Inquiries as to Carrying out Law.—Under this head the Visiting Commissioners require production of all orders and certificates for the detention of the lunatics whom they may find in the house. See 44th Rep., p. 3.

Dietary.—As to diet, see remarks of the Commissioners, 21st Rep., p. 28; 28th Rep., p. 68. A nutritious dietary is one of the most valuable means of treatment of various forms of insanity. It is part of the duty of the medical officer of the workhouse to give directions and make suggestions as to the diet classification and treatment of paupers of unsound mind.

Reports.—See, especially on the subject of the insane in workhouses, Further Report, 1847, Appendix A., and the 12th Rep. Supplement.

Removal to Asylum.—As to the power of the Commissioners to order the removal of any lunatic from the workhouse to an institution for lunatics, see section 60, *ante*, p. 221.

Special Visits.

204. (1.) If, for reasons to be entered on the minutes of the board, any case appears to the Commissioners to call for immediate investigation, they may by order direct any competent person or persons to visit and report upon the mental and bodily condition of any lunatic or alleged lunatic in any institution for lunatics or workhouse, or under the charge of any person as a single patient, and to inquire into and report upon any matters into which the Commissioners are authorised to inquire. **Power to appoint a person to inquire into cases requiring immediate investigation.**

Section 204. (2.) Every such person shall, for the special purposes mentioned in the order, have all the powers of a Commissioner.

(3.) The Commissioners may allow to any such person a reasonable sum for his services and expenses.

The sums allowed by the Commissioners under this sub-section, so far as sanctioned by the Treasury, will be payable out of moneys provided by Parliament for that purpose.

Visits to lunatics so found, and other lunatics.

205. (1.) The Lord Chancellor in the case of a lunatic so found by inquisition, and the Lord Chancellor or a Secretary of State in any other case, may at any time, by an order in writing under the hand of the Lord Chancellor or the Secretary of State, as the case may be, directed to the Commissioners or any of them, or to any other person, require the persons or person to whom the order is directed to visit and examine a lunatic or alleged lunatic, and to inspect any place in which a lunatic or alleged lunatic is detained, and to report to the Lord Chancellor or to a Secretary of State upon such matters as in the order are directed to be inquired into.

Lunatics not so found.—"Any other case" would include any lunatic under the care of any person receiving or taking the charge of such one lunatic only, and deriving no profit from such charge; also any person confined as a State or criminal lunatic, as to which see the Second Part of this Work. See also as to this section the notes to section 315, *post*, p. 428.

Application to Lord Chancellor.—The application to the Lord Chancellor for an order under this section should be by private letter.

(2.) Every person (not being a Commissioner) employed under this section may be paid such sum of money for his services as the Lord Chancellor or a Secretary of State thinks reasonable.

(3.) Every person so employed, whether a Commissioner or not, shall be allowed his reasonable travelling or other expenses while so employed.

(4.) Sums payable under this section shall be paid out of moneys provided by Parliament.

Lunatics in Private Families and Charitable Establishments.

Lunatics in private families and charitable establishments.

206. (1.) If it comes to the knowledge of the Commissioners that any person appears to be without an order and certificates detained or treated as a lunatic or alleged lunatic by any person receiving no payment for the charge, or in any charitable, religious, or other establishment (not being an institution for

lunatics), they may require the person by whom the patient is detained, or the superintendent or principal officer of the establishment, to send to them, within or at such time or times as the Commissioners may appoint, a report or periodical reports by a medical practitioner of the mental and bodily condition of the patient, with all such other particulars as to him and his property as they think fit. Section 206.

That enactment was passed in accordance with a suggestion made to and approved of by the Select Committee of 1878, to the effect that reports should be sent to the Commissioners as to patients kept under restraint in private families or religious houses not for profit, provided that the reports were confidential, and the patients confirmed lunatics, not merely suffering under temporary derangement. (Report, p. v.)

With reference to this suggestion, the Commissioners in Lunacy in their 33rd Report, at p. 136, said :—" We should be glad to see this suggestion pass into law ; but the mere report would be of no use unless we had power to visit, and to some extent regulate treatment, as, for instance, by insisting on periodical medical visitation, and entries thereof in a book. The only way to secure such registration would probably be that suggested by Dr. Nugent (Q. 2,879—81 : Evidence taken by the Committee), to make it penal for the medical attendant to refrain from reporting where the illness and consequent restraint or detention had lasted for a period of, say six months."

(2.) Any one or more of the Commissioners may at any time visit any such patient and report the result of the visit to the Commissioners, and may exercise, with respect to such patient, all the powers (except that of discharge) given to them as to persons confined in any institution for lunatics, or as single patients. [Visitation
and removal.]

(3.) The Commissioners may, if they think fit, transmit any reports received by them, or may report the results of any inquiries made by them under this section, to the Lord Chancellor, who may thereupon make an order for the discharge of the patient from the custody in which he is detained, or for his removal to an institution for lunatics, or to such other custody as he may think fit, and the expenses properly incurred of carrying any such order into effect, and of maintaining the patient if so removed shall, if the order so directs, be paid by the guardians of the union in which the patient was found, until the authority legally liable for his maintenance has been ascertained ; and such guardians shall have the same right to recover any such expenses paid by them against the lunatic and his estate, and the person or authority legally liable for

Section 206. his maintenance as in the case of orders for maintenance under this Act.

Adjudication of Settlement.—As to ascertaining the authority legally liable for the maintenance of the lunatic, see sections 289, 290, *post*, pp. 398, 400.

Recovery of Expenses.—As to the right of the guardians to recover expenses against the lunatic and his estate, see section 132, *ante*, p. 284, and sections 299, 300, *post*.

(4.) Where an order is made by the Lord Chancellor under this section for removal of a lunatic to an asylum, any justice of the county or borough in which the asylum is may exercise all the authorities conferred upon a justice by this Act, for the purpose of making the lunatic's property applicable to his maintenance, and for maintaining him as a pauper.

Authority of Justice.—As to the authority conferred on a justice by this Act for the purpose of making the lunatic's property applicable to his maintenance, see section 299, *post*, p. 411.

(5.) All reports and particulars sent to the Commissioners under this section shall be kept by them, and shall be open to inspection only by the Commissioners and the Lord Chancellor, and by such persons as the Lord Chancellor directs.

PART VIII.

LICENSED HOUSES AND HOSPITALS.

Restrictions on New Licences.

207. (1.) If the Commissioners in the case of a house within **Section 207.** their immediate jurisdiction, or in the case of a house licensed by justices, the justices are of opinion that a house licensed for the reception of lunatics has been in all respects well conducted by the licensees, the Commissioners or justices may, upon the expiration of the licence, renew the licence for that house to the former licensees, or any one or more of them, or to their successors in business.

Restrictions
on new
licences.

Immediate Jurisdiction.—As to the immediate jurisdiction of the Commissioners, see section 208 (1), and Third Schedule, *post*, pp. 340, 469.

Discretion.—The Commissioners or licensing justices appear to have an absolute discretion as to whether they will renew the licence or not, and no appeal is given against their decision.

Successors in Business.—The Commissioners discountenance all mercenary and corrupt transactions for the sale or transfer of licensed houses, on payment of money in the form of rent or otherwise for what is commonly termed “good will.” 13th Rep., p. 61 ; 14th Rep., p. 20.

(2.) (If on the twenty-sixth of August, one thousand eight hundred and eighty-nine, the licensees of any house had made arrangements to establish a new house for the reception of lunatics in the place of an existing house, and the Commissioners, or if the existing house was within the jurisdiction of justices the justices, are of opinion that such new house will be as well suited for the purpose as the existing house, and are also of opinion that the existing house has been in all respects well conducted, the Commissioners or justices may grant to the licensees of the existing house, or any one or more of them, a licence for the new house, and may renew the same to the original licensees, or any one or more of them, or to his or their successors in business.)

[Transfers
already
arranged may
be carried
out.]

This sub-section was repealed by the Statute Law Revision Act, 1908.

Section 207. (3.) If at any time it is shown to the satisfaction of the Commissioners or the justices, as the case may be, that it would be for the comfort and advantage of the patients in any licensed house that another house should be substituted in place thereof, the Commissioners or justices may grant to the licensees of such first-mentioned house a licence in respect of such other house upon and subject to the same conditions and restrictions as may have existed in respect of the first-mentioned house.

[Future transfers allowed in certain cases.]

“The question has occasionally arisen, whether section 207 of the Lunacy Act, 1890, authorises the substitution for a House previously licensed of a new House which is under the jurisdiction of a different licensing authority, e.g., where the two Houses are in different counties, or where one is, and the other is not, within our immediate jurisdiction. . . . We thought it advisable to take the opinion of the Law Officers of the Crown upon this point, and laid a case before them for that purpose.”

Question put to the Law Officers of the Crown.—“Whether under section 207 (3) or (4) the Commissioners can grant a licence for a new House within their jurisdiction, when the old House is within the jurisdiction of justices, and the justices of any county or quarter sessions borough can grant a licence for a new House within their county or borough when the old House is within the jurisdiction of the Commissioners or of the justices of some other county or borough.”

Opinion.—“The answer to this question, in our opinion, is in the negative.” Fifty-seventh Report of the Commissioners in Lunacy, p. 13.

[Separation of joint licensees.]

(4.) In the case of joint licensees or proprietors who desire to carry on business apart from one another, if, in the opinion of the Commissioners or of the justices, as the case may be, the establishment conducted by them jointly, and also any new house which any of them desires to conduct, answers the conditions hereinbefore required for granting renewed licences, the Commissioners or justices, as the case may be, may grant to each of such licensees or proprietors renewed licences for such number of patients (not exceeding in the aggregate the number allowed by the joint licence) as such joint licensees or proprietors agree upon, or failing their agreement, as the Commissioners or justices determine.

Jurisdiction.—The proposed new house must be within the same jurisdiction, see notes to preceding sub-section.

[Managing licensees.]

(5.) Where the licensee of a house is a medical man in the employment of the proprietor of such house as his manager, the licence shall be transferable or renewable to such licensee

so long as he continues manager of the house, or to the pro-Section 207.
prietor, or to any other medical manager while employed by
the proprietor in the place of the former manager.

(6.) Save as in this section provided, no new licence shall be granted to any person for a house for the reception of lunatics, and no house in respect of which there is at the passing of this Act an existing licence shall be licensed for a greater number of lunatics than the number authorised by the existing licence. [In other cases no new licences.]

Existing Licence.—The words “existing licence” where they secondly occur in this sub-section mean the same as where they first occur, *i.e.*, existing at the passing of this Act, 29th March, 1890.

Idiots and Imbeciles.—It will be seen that by section 340 (2), *post*, this Act does not affect the provisions of the (now repealed) Idiots Act, 1886, 49 & 50 Vict. c. 25, and consequently that this section does not apply to licensed houses used solely for the reception of idiots and imbeciles previously under that Act, and now under the Mental Deficiency Act, 1913, *post*.

Object of Enactment.—The Select Committee of 1878 in their report said :—“The Committee found the greatest diversity of opinion with respect to private licensed houses. Some witnesses urged the immediate abolition of all such houses, on the ground of the temptation to keep profitable patients longer than necessary. Others as confidently stated that such houses supplied an acknowledged want, that there was a greater percentages of cures among patients under private care than among those in public asylums, and that it was to the interest of the proprietors of private asylums to maintain the character of their establishments; whilst in public asylums, though the temptation to detain unduly for the sake of profit could hardly be said to exist, yet that paid officials might lose personal interest in the good and careful management of these institutions. Other witnesses, again, took a view between these two extremes, and considered that no alteration of the law in this respect was necessary, but that the matter had better be left to the spontaneous action of the public; that the time might arrive when there would be sufficient accommodation in public institutions for all classes, such as exist in Scotland, in Cornwall, and at Cheadle, in Cheshire. When that time arrived it was possible that there would be no demand for licensed houses for the upper and middle classes, nor would lunatics be kept any longer in the wards of workhouses, which it was represented are often, especially in Ireland, most unfit for the purpose. In this opinion the Committee concur, and they would suggest that legislative facilities should be afforded by enlargement of the powers of magistrates, or otherwise, for the extension of this system.”—Report, p. vi.

This section accordingly provides that whilst no new licence is to be granted for a house for the reception of lunatics, vested rights shall be protected, and provision is made for houses in the course of being established at the passing of the Act of 1889, and for the substitution of new houses for existing houses.

Section 208.

Jurisdiction of Commissioners and Justices.

Places within immediate jurisdiction of Commissioners.

208. (1.) The Commissioners shall exercise the licensing jurisdiction under this Act as regards the places mentioned in the third schedule, which are to be deemed within their immediate jurisdiction.

As to the history of the metropolitan licensed houses, see 14th Rep., p. 20.

[Provincial licensing authority.]

(2.) In all places not within the immediate jurisdiction of the Commissioners, the justices for every county and quarter sessions borough shall be the licensing justices, and shall at quarter or special sessions respectively have the same authority within their counties and boroughs to license houses for the reception of lunatics as the Commissioners within their immediate jurisdiction.

Borough Special Sessions.—The clerk to the justices should convene the special sessions in a borough for granting licences, and should be in attendance on the justices to advise them thereat, and the clerk of the peace must also attend for the purpose of drawing up the licences and receiving the fees. See also section 209, *infra*.

[Members of licensing authority not to be interested.]

(3.) A person shall not act in granting any licence if he is, or within one year next preceding has been, interested in a licensed house.

Borough justices to hold special sessions.

209. For the purposes of this Part of this Act the justices of every borough shall assemble in special sessions at such times as the quarter sessions for the borough are held.

Conditions on which Licences granted.

Before grant of a new licence by justices, Commissioners to inspect and report.

210. Before a licence is in any case provided for by this Act granted for a house not within the immediate jurisdiction of the Commissioners and not previously licensed, one or more of the Commissioners shall by inspection ascertain whether the house and its appurtenances are suitable for the reception of lunatics, and the Commissioners shall report thereon to the clerk of the peace of the county or borough, and the report shall be received and considered by the justices.

As to the information to be forwarded with the application for the licence, see Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 30, *post*, p. 537.

Licensee to reside.

211. A licence shall not be granted unless the licensee or one of the licensees undertakes to reside in the house.

212. In the case of a licence granted to two or more persons, if before the expiration of the licence any of such persons dies, leaving the others surviving, and one of the survivors has undertaken or within ten days after the death gives to the Commissioners or the justices who granted the licence a written undertaking to reside on the licensed premises, the licence shall remain in force, and have the same effect as if granted to the survivors.

Section 212.

Licence to joint licensees.

If the undertaking is not given within the time limited for that purpose, it seems that the licence may be transferred under section 218, *post*, p. 342.

213. No addition or alteration shall be made to any licensed house or the appurtenances without the previous consent in writing of the Commissioners, and also of two of the visitors in the case of a house within the jurisdiction of visitors.

Notice of additions and alterations.

Notices before Alteration.—As to the notices of the proposed alteration or addition, and as to the plans which must be sent to the Commissioners, and in the case of a house licensed by justices, to the clerk of the peace, see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 38, p. 540.

214. If any person, for the purpose of obtaining a licence or the renewal of a licence for a house for the reception of lunatics, wilfully supplies to the Commissioners or justices any untrue or incorrect information, plan, description, statement, or notice, he shall be guilty of a misdemeanor.

Untrue statement a misdemeanor.

215. (1.) Within seven days after the grant of a licence by the justices of a county or borough, the clerk of the peace of the county or borough shall send a copy thereof to the Commissioners.

A copy of licence granted by justices to be sent to the Commissioners.

(2.) Any clerk of the peace omitting to send such copy within such time shall for every such omission be liable to a penalty not exceeding forty shillings.

216. Licences and renewed licences shall be stamped with a ten shilling stamp, and shall be under the seal of the Commissioners, if granted by them, and if by any justices, under the hands of three or more of them in quarter or special sessions assembled, and shall be granted for such period, not exceeding thirteen months, as the Commissioners or justices, as the case may be, think fit.

Stamps on licences.

217. (1.) For every licence there shall be paid to the Secretary of the Commissioners, or to the clerk of the peace, according as the licence is granted by the Commissioners or justices,

Charge for licences.

Section 217. (exclusive of the stamp,) the sum of ten shillings for every patient not being a pauper, and the sum of two shillings and sixpence for every patient being a pauper.

[Fifteen pounds minimum.] (2.) If the total amount of such sums of ten shillings and two shillings and sixpence does not amount to fifteen pounds, then so much more shall be paid as makes up fifteen pounds.

[Reduction for short licence.] (3.) If the period for which a licence is granted is less than thirteen months, the Commissioners or the justices may reduce the payment to any sum not less than five pounds.

[Charge on transfer.] (4.) The payment for a licence for a new house granted upon the transfer of patients from a licensed house shall not be less than one pound (exclusive of the stamp).

(5.) No licence shall be delivered until the sum payable for the same has been paid.

Application of Fees.—The fees payable to the secretary to the Commissioners under this section are, under section 7 of the 17 & 18 Vict. c. 94, from time to time to be paid into the Exchequer and to be carried to and form part of the Consolidated Fund, and applied in aid or diminution of charges borne upon the annual votes of Parliament or upon the Consolidated Fund; or, under section 1 of 31 & 32 Vict. c. 9, if the Treasury so directs, are to be paid over to the Exchequer to the credit of the Consolidated Fund in such manner as the Treasury may from time to time determine.

As to the fees paid to the clerk of the peace, see section 224, *post*, p. 344.

Incapacity or death of the person licensed.

218. (1.) If a person to whom a licence has been granted becomes by sickness or other sufficient reason incapable of keeping the licensed house, or dies before the expiration of the licence, the Commissioners or any three justices for the county or borough, as the case may be, may, if they think fit, by writing endorsed on the licence under the seal of the Commissioners or under the hands of such three justices, transfer the licence, with all the privileges and obligations annexed thereto, for the term then unexpired, to such person as the Commissioners or justices approve.

Joint Licensees.—It would seem that under sections 1 and 19 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, this section is applicable in the case of the sickness, &c., of any one or more of joint licensees. As to the case of death of a joint licensee, see section 212, *ante*, p. 341.

Stamps and Fees.—No stamp is required nor is any fee payable on a transfer under this section.

Sealing Endorsement.—As to the sealing of endorsements by the Commissioners, see section 152, *ante*, p. 303, as amended by Mental Deficiency Act, 1913, *post*.

Obligations Transferred.—Amongst the obligations transferred will be the obligation of residence imposed by section 211, *ante*, p. 340.

(2.) Where a licence is transferred by justices of a county or borough under this section, the clerk of the peace of the county or borough shall within three days after the date of the instrument of transfer send a copy thereof to the Commissioners. Section 218.
[Copy transferred for Commissioners.]

A copy of the endorsement will be sufficient, provided that the licence can be sufficiently identified thereby.

(3.) A clerk of the peace who makes default in performing the duty imposed upon him by this section, shall, for each day during which the default continues, be liable to a penalty not exceeding forty shillings. [Penalty for default.]

219. In cases in which under this Act a house not previously licensed is to be substituted for a licensed house, unless the substitution is occasioned by fire or tempest, seven clear days' notice of the intended substitution shall be sent to the person on whose petition the reception order of each private patient was made, or to the person by whom the last payment on account of the patient was made, and to the authority liable for the maintenance of each pauper patient. Notice on change of house.

Order and Certificates.—The order and certificates upon which the patient, whether a private patient or a pauper, was received, remain in force under section 37 (2), *ante*, p. 197, notwithstanding his removal to the substituted house.

220. If a licensee receives into his licensed house any patients beyond the number specified in the licence, or fails to comply with the regulations of the licence as to the sex of the patients or the class of patients, he shall for each patient received contrary to his licence forfeit fifty pounds. Penalty for infringing licence.

221. (1.) If a majority of the justices of a county or quarter sessions borough in quarter or special sessions assembled recommend to the Lord Chancellor that any licence granted by the justices for such county or borough be revoked, or if the Commissioners recommend to the Lord Chancellor that any licence granted either by them or by any justices be revoked or if granted by any justices be not renewed, the Lord Chancellor may, by an instrument under his hand and seal, revoke or prohibit the renewal of the licence. Power of revocation and prohibition of renewal of licences.

(2.) A revocation of a licence shall take effect at a date to be named in the instrument of revocation, not more than two months from the time when a copy or notice thereof has been published in the *London Gazette*. [Date of revocation.]

(3.) A copy or notice of the instrument of revocation shall be published in the *London Gazette*, and shall, before publication, [Notice to manager.]

Section 221. be transmitted to the manager of the licensed house, or shall be left at the licensed house.

[Notice of recommendation to revoke.]

(4.) In case of any such revocation or prohibition to renew being recommended to the Lord Chancellor, notice thereof in writing shall, seven clear days previously to the transmission of such recommendation to the Lord Chancellor, be given to the manager, or left at the licensed house.

Detention of lunatics after expiration or revocation of a licence a misdemeanor.

222. If after the lapse of two months from the expiration or revocation of the licence of any house, there are in the house two or more lunatics, every person keeping the house or having the care or charge of the lunatics therein, shall be guilty of a misdemeanor.

Powers to continue so long as any lunatics detained.

223. The powers of the Commissioners and visitors with reference to any licensed house and the patients therein, and all powers and provisions of this Act having reference to the discharge, removal, and transfer of the patients, shall, after the expiration or revocation of the licence, continue in force so long as any patients are detained therein as lunatics.

Application of Fees for Licences.

Application of moneys received for clerks of the peace.

224. (1.) All moneys received for licences granted by any justices shall be paid by the clerk of the peace for the county or borough into the county or borough fund.

[Clerk of peace to keep accounts.]

(2.) The clerk of the peace for every county or borough shall keep an account of all moneys received and paid by him as aforesaid, and of all moneys otherwise received or paid by him in the execution of this Act.

Moneys otherwise Received or Paid.—As to “moneys otherwise received or paid by him in execution of this Act,” see section 326, *post*, p. 436, as to penalties recovered; and section 332 (4), *post*, p. 441, as to expenses of witnesses.

[Making up and audit of accounts.]

(3.) Such account shall be made up to the thirty-first day of March in each year, or to such other date as the Local Government Board appoint, and shall be signed by two at least of the visitors for the county or borough; and in the case of the clerk of the peace of the county, shall be audited by the same person, in the same manner, and with the same incidents and consequences as the accounts of officers of the county council,

51 & 52 Vict. under the Local Government Act, 1888.
c. 41.

Audit.—As to the audit of the accounts of officers of the county council under the Local Government Act, 1888, see notes to section 18 of the Lunacy Act, 1891, *post*, p. 479.

225. (1.) The justices of every county or borough in quarter or special sessions may order such sums as may be reasonable for payment of the remuneration or salary of the visitors and their clerk, and all other expenses incurred by or under the authority of the justices or visitors in the execution of this Act, to be paid to the clerk of the peace of the county or borough out of the county or borough fund. Section 225.
Balance of payments over receipts may be paid out of the funds of the county or borough.

(2.) Every such sum shall be paid out of the county or borough fund by the treasurer thereof, and shall be allowed in his accounts, on the authority of the order by the justices for the payment thereof. [Money to be paid by treasurer.]

(3.) Every sum ordered to be paid by justices of a county under this section shall be subject to the sanction of the standing joint committee of the county council and quarter sessions as provided by section sixty-six of the Local Government Act, 1888. [Sanction of standing joint committee necessary.]
51 & 52 Vict. c. 41.

Sanction of Standing Joint Committee.—Section 66 of the Local Government Act, 1888, 51 & 52 Vict. c. 41, provides that all costs incurred by justices, police officers, and constables in defending legal proceedings in respect of any act done in the execution of their duty, “shall, to such amount as may be sanctioned by the standing joint committee of the county council and quarter sessions, and so far as they are not otherwise provided for, be paid out of the county fund of the county, and the council of the county shall provide for such payment accordingly.”

Management of Licensed Houses.

226. The Commissioners, with the sanction of a Secretary of State, may make regulations for the government of any licensed house; and such regulations of the Commissioners, or a copy thereof, shall be transmitted by their secretary to the manager of every licensed house to which the same relate, and shall be observed therein. Commissioners may make regulations for the government of licensed houses.

Since the statute directs that the regulations shall be observed, disobedience to the regulations will be punishable on indictment as a misdemeanor by fine and imprisonment without hard labour (both or either), at the discretion of the court: *Rex v. Davis* (1754), Sayer, 163; *Reg. v. Price* (1840), 11 A. & E. 727. See also *Rex v. Harris* (1791), 4 T. R. 202; *Reg. v. Walker* (1875), L. R. 10 Q. B. 355; 44 L. J. M. C. 169; 33 L. T. (N.S.) 167.

227. There shall be hung up in some conspicuous part of every licensed house a copy of the plan given to the Commissioners or justices on applying for the licence. Plans to be hung up.

Section 228. **228.** (1.) In every house licensed for one hundred patients, or more, there shall be resident as the manager and medical officer thereof a medical practitioner.

Provision for
residence
and visits of
medical
attendants.

As to the poor law settlement of the resident medical attendant, see *Reg. v. Norwood* (1867), L. R. 2 Q. B. 457 ; 36 L. J. M. C. 91 ; 31 J. P. 518.

(2.) Every house licensed for less than one hundred and more than fifty patients (in case the house is not kept by or has not a resident medical practitioner) shall be visited daily by a medical practitioner.

(3.) Every house licensed for less than fifty patients (in case the house is not kept by or has not a resident medical practitioner) shall be visited twice a week by a medical practitioner.

It will be observed that there is no express provision for the case of a house licensed for exactly fifty patients.

(4.) The visitors of any licensed house may direct that such house, and the Commissioners may direct that any licensed house shall be visited by a medical practitioner at any other time or times, not being oftener than once a day.

(5.) When a house is licensed to receive less than eleven lunatics, any two (a) of the Commissioners or any two of the visitors of such house may, if they think fit, by any writing under their hands, permit the house to be visited by a medical practitioner at such intervals more distant than twice a week as the Commissioners or visitors appoint, but not at a greater interval than once in every two weeks.

Entries in Medical Journal.—In the case of a licensed house at which visits by a medical practitioner at more distant intervals than once a week are permitted under this sub-section, the prescribed entries in the medical journal should be made at each visit ; see Rule 11 of the Rules of the Commissioners in Lunacy, 26th June, 1895, *post*, p. 530.

Boarders in
licensed
houses.

229. (1.) The manager of a licensed house may, with the previous consent in writing of two (b) of the Commissioners, or, where the house is licensed by justices, of two of the justices, receive and lodge as a boarder for the time specified in the consent any person who is desirous of voluntarily submitting to treatment ; after the expiration of which time (unless any further consent is in like manner given for the extension thereof)

(a) See Order in Council, 9th March, 1914, as to duties being exercised by one Commissioner instead of two, cited under section 150, *ante*, p. 301.

he shall be discharged. The manager of a licensed house may also, with such previous consent as aforesaid, receive and lodge as a boarder, for the time specified in the consent, any relative or friend of a patient. Section 229.

The Select Committee of 1878 reported that it seemed unnecessary to restrict admission, as voluntary boarders, into licensed houses, to persons who had already been patients under certificates; but the Committee thought that all cases of such admission should be reported to the Lunacy Commissioners within twenty-four hours (Report, p. vi.). With reference to this suggestion of the Committee, the Commissioners in Lunacy, in their 33rd Annual Report, at p. 137, said, "The system of admitting boarders has answered well. We are quite prepared to extend it to any person who at any time has been an inmate of any institution for the insane, or has been a single patient (either as a lunatic so found or under certificates). But we do not recommend the indiscriminate admission of persons never certified as insane. The following objections may be sufficient:—

"1. The fear of attempts at evasion of the law by introducing as boarders persons who ought to be under certificates.

"2. The fear of the introduction of mere drunkards.

"3. The fear of crowding the house to the inconvenience of the insane patients.

"The previous consent of ourselves or the visitors should remain a *sine quâ non*. Notice of admission is thus scarcely necessary."

By Rule 8 (6) Commissioners' Rules, 26th June, 1895, notice of the admission of a boarder into any licensed house or hospital must be sent to the Board of Control.

Notice of Admission to Provincial Licensed House.—As to notice to the Commissioners of the admission of a voluntary boarder into a house licensed by justices, see section 20 of the Lunacy Act, 1891, *post*, p. 484.

Form of Consent.—Form of Consent to the Admission of a Boarder, Form 14 in the Second Schedule, *post*, p. 464.

Form of Notice of Admission of a Boarder, see Commissioners' Rules, 26th June, 1895, Schedule Form 11, *post*, p. 547.

Register of Boarders.—The Resident Licensee of every licensed house and the Superintendent of every Hospital are required to keep a register of voluntary boarders in the prescribed form; see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 19, Form 6 in the Schedule, *post*, pp. 532, 545.

(2.) The consent of the Commissioners or justices, as the case may be, shall be given only upon application to them by the intending boarder.

"An inquiry having been made as to the practice of admitting patients and voluntary boarders direct into the branches of Hospitals and licensed houses without passing through those establishments, the matter was considered by the Board, and the conclusion arrived at was that this practice, however desirable, could not be sanctioned." Sixty-sixth Report of the Commissioners in Lunacy, Part I., p. 60.

Section 229. (3.) The total number of patients and boarders in a licensed house shall at no one time exceed the number of patients for which the house is licensed.

Penalty.—As to the punishment of the licensee for receiving more than the number of patients specified in the licence, see section 220, *ante*, p. 343.

(4.) Every boarder shall, if required, be produced to the Commissioners and visitors respectively on their respective visits.

“If required,” that is, by the visiting Commissioners or visitors. It is important that all boarders should be seen, whenever licensed houses are visited, with a view to ascertain beyond all doubt that they are of sound mind, and entirely free agents, and that they fully understand their position: 18th Rep., p. 104.

Production of Register.—The register of voluntary boarders required to be kept by the manager of every licensed house by the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 19, must be laid by the manager before the visiting Commissioners or visitors at each visit: see section 196, *ante*, p. 328.

(5.) A boarder may leave the licensed house in which he is a boarder upon giving to the manager thereof twenty-four hours’ notice in writing of his intention so to do.

Removal by Commissioners.—As to the removal of boarders, and the placing of them under certificates by order of the Commissioners, see section 20 of the Lunacy Act, 1891, *post*, p. 484.

(6.) If any person is not allowed to leave the licensed house in which he is a boarder after the expiration of twenty-four hours’ notice to the manager thereof of his intention so to do, he shall be entitled to recover from the manager ten pounds as liquidated damages for each day or part of a day during which he is detained.

Hospitals.

Hospitals to have a resident medical attendant.

230. Every hospital for the reception of lunatics shall have a medical practitioner resident therein as the superintendent and medical officer thereof.

As to the nature, origin, and constitution of the registered hospitals, see 9th Rep., p. 10, and Appendix (B.), and 17th Rep., p. 13.

Provisions for registration of hospitals in which lunatics are received.

231. (1.) When application is made for the registration of a hospital for the reception of lunatics, the Commissioners may depute any one or more members of their body, or may employ such person or persons as they think fit, to inspect the hospital and report to them thereon.

Applications should be addressed to—

The Secretary,

Board of Control,

66, Victoria Street,

Westminster, S.W.

Section 231.

NOTE.

Information for Commissioners.—As to the plans and information to be sent to the Commissioners with the application for registration, see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 39.

Origin of present law.—In their 33rd Report, at pp. 131—133, the Commissioners in Lunacy remarked that “the Select Committee (of 1878), whilst not pronouncing either for or against the continuance of licensed houses, advocate the extension of institutions of the character of the present registered hospitals [see note to section 207 (6), *ante*]. While of opinion that for the reception of the richer class of patients licensed houses under proper management are not unsuitable, and will continue to find favour with the friends of such patients, rather than quasi-public institutions, we are well aware that for persons of small means, and for the class removed a degree or two above the mechanic paid by weekly wages, an increase in the number of public institutions for the insane, adequately supported, would be a great boon. The Select Committee appear to think that establishments of this kind might be provided in the first instance, by a compulsory charge on the county rate, as in the case of asylums. It is impossible for us to say whether or no such a provision would find favour with Parliament or with the country; but we feel that any extension of the registered hospital system on its present basis must be accompanied by stricter provisions than now exist both as to foundation and as to management. While acknowledging the advantages which many of the existing lunatic hospitals offer, and while making no charges against the present management of any of them, for as a rule it is very good, we think that it is not too much to say that any of these institutions under the existing law, and in the hands of a weak committee, might easily be worked so as to become, instead of a philanthropic and charitable foundation, an establishment maintained mainly for the personal benefit of the resident staff, subject to none of the control exercised by Commissioners and justices over the proprietor of a licensed house. To obviate these objections and others which have from time to time arisen, we would suggest several provisions of which the following is a summary :—

- (a.) All hospitals where lunatics are received should be registered as at present, but applications for registration should contain a statement of the nature of the proposed hospital; who are the founders; what persons, and by whom appointed, are to form the governing body; what class of patients, and at what average payments, are to be received.
- (b.) Plans of the building and estate should be deposited in our office [Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 39, *post*].
- (c.) Prior to registration the premises should be inspected, and a report thereon made to our Board [section 231 (1)].

Section 231. (*d.*) Registration should be primarily a matter for the discretion of this Board, and should not be compulsory as at present [section 231 (2)].

NOTE.

(*e.*) Should the Board decline to register the hospital, a statement of their reasons should be laid before the Secretary of State, who should decide absolutely whether the certificate, presently referred to, is to issue or not [section 231 (2)].

(*f.*) If the Board is satisfied with the constitution of the hospital and the building, &c., or is directed by the Secretary of State to register, a provisional certificate of registration should be issued, to be valid for six months, or until approval by the Secretary of State of the regulations to be proposed, as at present, by the governing body. During currency of the provisional certificate, the governing body to be at liberty to receive patients [section 231 (3), (4), (5), (7)].

(*g.*) On approval of the regulations, a complete certificate of registration to issue [section 231 (6)].

(*h.*) Within three months of the passing of the Act, all hospitals, except Bethlehem, ought, we think, to deposit plans of land of whatever tenure occupied by the governing body, and on any new purchase or hiring of land fresh plans should be deposited [Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 39, *post*]. No building in the occupation of the governing body should be deemed part of the hospital for any purpose connected with the care and treatment of patients, unless the same be situate wholly on some part of the land of which plans are deposited. The reception of patients in any buildings not so situate should be a misdemeanor [section 233, *post*]. The superintendent and all others concerned in taking charge should then be liable to the same penalties as persons receiving lunatics in an unlicensed house [section 315 (1), *post*].

(*i.*) The accounts of hospitals audited by a public accountant, should be printed annually, and a copy sent to us together with a list of the names and addresses of members of the governing body and principal officers, medical or otherwise [section 234, *post*, and Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 42, *post*].

(*k.*) Our Board should have power, with the previous consent in writing of the Secretary of State, given upon a representation from the Board, and after such inquiries as the Secretary of State might please, in case of wilful neglect or disobedience to the regulations, to prohibit by sealed order the further reception of patients for a period not exceeding six months. At the end of that time further power should exist, with like consent, to order the hospital to be closed [section 237, *post*].

(*l.*) No person directly or indirectly concerned in supplying the hospital with goods of any kind, and no medical officer thereof, should be a member of the governing body [section 236, *post*].¹⁷

(2.) If the Commissioners are of opinion that the hospital ought not to be registered for the reception of lunatics, they shall make a written report to a Secretary of State, stating the reasons for such opinion, and the Secretary of State shall thereupon finally determine whether the hospital ought to be registered or not. Section 231.
[Powers of Secretary of State.]

(3.) If the Commissioners are of opinion or a Secretary of State determines that the hospital ought to be registered, the Commissioners shall issue a provisional certificate of registration. [Provisional registration.]

(4.) A provisional certificate shall be valid for six months from the date of its issue, and for such extended time as the Commissioners allow, unless before its expiration it is superseded by a complete certificate of registration. [Duration of provisional certificate.]

(5.) Within three months from the date of the provisional certificate, the managing committee of the hospital shall frame regulations for the hospital, and shall submit the same to a Secretary of State for approval. [Committee to frame regulations.]

See further as to the regulations, section 232, *post*.

Alteration of Regulations.—As to altering the regulations, see section 12 of the Lunacy Act, 1891, *post*, p. 352.

(6.) Upon approval of the regulations by a Secretary of State, the Commissioners shall issue a complete certificate of registration, and shall specify therein the total number of patients of each sex who may be received in the hospital. [Complete registration on approval of regulations.]

(7.) As from the date of a provisional certificate lunatics may be received in the hospital, but if no complete certificate of registration is granted, then no lunatic shall be received or detained in the hospital after the expiration of the provisional certificate. [Provisional reception of lunatics.]

(8.) The total number of patients and boarders, if any, in a hospital shall at no one time exceed the number of patients for which the hospital is certified. [Limit of number of patients.]

Boarders in Registered Hospital.—Besides persons of unsound mind, for whose medical care and treatment hospitals are primarily intended, arrangements are made for the reception therein of persons, not insane, who being conscious of a want of power of self-control or of the addiction to intemperate habits, or fearing an attack or a recurrence of mental malady, and being in all respects free agents, are desirous of residing as voluntary boarders in such hospitals. Upon the question whether, and if so, in what way, such arrangements could be legally and properly carried out, the Commissioners in Lunacy, in 1863, took the opinion of counsel, who advised that there was nothing in the statutes to prevent the admission of the persons referred to as such boarders, and that there would be no difficulty

Section 231. in enforcing legally the stipulations and conditions of any agreement by bond or otherwise for their residence therein. 17th Rep., p. 13, and App. (F.). Boarders should be required before their reception to sign a written paper expressing their desire to remain in the hospital, and their willingness to submit to such regulations as shall be laid down by the committee and medical superintendent, on whose part it should be clearly expressed that the boarder is at liberty to quit the hospital whenever he may think fit. 24th Rep., p. 36. Orders and certificates should be insisted on when the difficulty of obtaining them is not so much the mental condition of the patient seeking to be made a boarder, as the disinclination of friends to admit insanity in a relation, or the reluctance of medical men to certify in the present state of the law. 43rd Rep., p. 101. The reception of a boarder should be for a definite period with power of extension: and the application to be a boarder should not be on a printed form, but should be in the applicant's handwriting (to obviate any misapprehension on the applicant's part as to the purport and obligations of the document); and the consent of the committee of the hospital should be given previous to the reception. 46th Rep., p. 71. As to notice to the Commissioners in Lunacy and their powers of removal or requiring certificates, see section 20 of the Lunacy Act, 1891, *post*, p. 484.

NOTE.

[No lunatics to be received in unregistered hospital.]

(9.) No lunatic shall be received in any hospital unless the same has been registered before the passing of this Act, or is registered under a provisional or complete certificate by virtue of this Act.

[Penalty on superintendent.]

(10.) The superintendent of any hospital who receives or detains any lunatic in the hospital contrary to the provisions of this Act, or to the terms of the complete certificate of registration, shall be guilty of a misdemeanor.

Regulations.

232. (1.) The regulations for the time being in force in a hospital shall be observed.

Control of Patients.—As to complaints from neighbours regarding insufficient control of the patients, see section 21 of the Lunacy Act, 1891, *post*, p. 484.

(2.) Such regulations shall be printed, and a copy thereof shall be sent to the Commissioners, and another copy hung up in the visitors' room in the hospital.

(3.) If the regulations are not so sent and hung up, the superintendent shall be liable to a penalty not exceeding twenty pounds.

Buildings not shown on plans not to be used for accommodation of lunatics.

233. (1.) No building in the occupation of the managing committee of a registered hospital not shown on the plans sent to the Commissioners pursuant to any rules made by them shall be deemed part of the hospital for any purpose connected with the reception or the care and treatment of lunatics.

(2.) If the superintendent of a registered hospital knowingly permits any lunatic to be detained or lodged in any building not shown on the plans of the hospital sent to the Commissioners, he shall be deemed guilty of a misdemeanor. Section 233.

234. (1.) The accounts of every registered hospital which does not submit its accounts to the Charity Commissioners shall be audited once a year by an accountant or other auditor to be approved by the Lunacy Commissioners, and shall be printed. Accounts to be audited and printed.

See the extract from the 33rd Report of the Commissioners in Lunacy cited in the notes to section 231 (1), *ante*, p. 348.

The Commissioners again stated in their 42nd Report, p. 82, that the furnishing of proper accounts by the lunatic hospitals ought not to depend upon the pleasure of the managers.

Charity Commissioners.—By section 12 (14) of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, it is enacted that in that Act and in every other Act, whether passed before or after the commencement of that Act, unless the contrary intention appears, the expression “Charity Commissioners” shall mean the Charity Commissioners for England and Wales for the time being.

Abstract for Lunacy Commissioners.—The superintendent must send an abstract of the accounts to the Commissioners in Lunacy within one month after the accounts have been submitted to the Charity Commissioners, or have been audited, as the case may be. This abstract must be in such form as the Commissioners in Lunacy from time to time prescribe (Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 42).

(2.) The Lunacy Commissioners may, if they think fit, prescribe the form in which the accounts of any registered hospital are to be kept, and the day of the year to which they are to be made up.

235. The managing committee of any hospital may grant to any officer or servant who is incapacitated by confirmed illness, age, or infirmity, or who has been an officer or servant in the hospital for not less than fifteen years and is not less than fifty years old, such superannuation allowance, not exceeding two-thirds of the salary of the superannuated person, with the value of the lodgings, rations, or other allowances enjoyed by him, as the committee think fit. Superannuation allowance of officer of hospital.

Scale of Allowances.—For the scale allowed under the Asylum Officer’s Superannuation Act to “*Asylum*” servants, see section 1 of that Act, *post*, Appendix I.

236. The following persons shall be disqualified from being members of the managing committee of a registered hospital: Persons disqualified to be members of managing committee of hospital.

(a.) Any medical or other officer of the hospital:

A.L.

2 A

Section 236. (b.) Any person who is interested in or participates in the profits of any contract with or work done for the managing committee of the hospital but so that this disqualification shall not extend to a person who is a member of an incorporated company which has entered into a contract with or done any work for the managing committee.

Powers for
enforcing
regulations
of hospitals.

237. (1.) The Commissioners may require the superintendent or any other officer of a registered hospital to give them such information as the Commissioners think fit as to the mode in which the regulations of the hospital are carried out.

(2.) If the Commissioners are of opinion that the regulations are not properly carried out, they may give to the superintendent and any two members of the managing committee of the hospital notice stating the particulars in which the regulations are not properly carried out, and requiring such things to be done as the Commissioners think proper for carrying out the same.

(3.) If at the expiration of six months from the date of the notice the requirements of the notice have not, in the opinion of the Commissioners, been complied with, the Commissioners, with the consent in writing of a Secretary of State, may make an order directing the hospital to be closed as from the date named in the order, so far as the reception and detention of lunatics is concerned.

Effect of Closing Order.—Apparently the powers of the Commissioners and visitors with reference to the hospital and lunatic patients therein, and all the powers and provisions of this Act having reference to the discharge, removal, and transfer of the lunatics, will continue in force so long as any patients are detained therein as lunatics after the date mentioned in the order for the closing of the hospital for the reception and detention of lunatics.

(4.) If any lunatics are detained or kept in the hospital after the date appointed by the order for closing the hospital, the superintendent of the hospital shall be guilty of a misdemeanor.

(5.) Before an order is made under this section the Commissioners shall send to the superintendent and any two members of the managing committee of the hospital notice in writing requiring them to state in writing within fourteen days the reasons why the requirements of the first notice have not been complied with ; and such statement, if any, shall be laid before the Secretary of State.

PART IX. (a)

COUNTY AND BOROUGH ASYLUMS.

Obligation to Provide Asylums.

238. (1.) Every local authority, as defined by this Act, shall **Section 238.**
provide and maintain an asylum or asylums for the accom-
modation of pauper lunatics. Local authorities to provide asylums.

“Provide” does not mean in all cases “build.” See sections 241—246, *post*, and notes, pp. 360—363.

It will be observed that the obligation imposed by this sub-section is compulsory. As to its enforcement, see section 247, *post*, p. 363.

History of the Law.—The history of the law upon the subject is as follows:—Before 1808 there was no statutory provision for the care of pauper lunatics, except an enactment in the Vagrant Act of 1744, 17 Geo. 2, c. 5, s. 20, enabling two justices to cause dangerous lunatics to be apprehended and safely locked up and chained, or if not settled in the place where they were found, to be forwarded to the place of their last legal settlement, and there dealt with in like manner, and (if paupers) to be maintained during custody at the expense of their parish of settlement. But in 1808, by the 48 Geo. 3, c. 96, after reciting the danger and inconvenience of the practice of confining chargeable lunatics in gaols, houses of correction, poor-houses, and houses of industry, the courts of quarter sessions for counties and boroughs were empowered, though not obliged, to provide asylums for pauper and criminal lunatics. This statute was repealed and superseded in 1828 by the 9 Geo. 4, c. 40, containing similar powers. It was not, however, until 1845, that the Legislature, by the 8 & 9 Vict. c. 126, repealing and superseding 9 Geo. 4, c. 40, rendered the provision of such asylums compulsory upon the justices. The like compulsory obligation was imposed by the Lunatic Asylums Act, 1853, 16 & 17 Vict. c. 97, which repealed and superseded the Act of 1845, and this obligation was transferred from the quarter sessions to the county and borough councils by the Local Government Act, 1888, 51 & 52 Vict. c. 41.

(2.) Where the asylum accommodation of a local authority appears to the local authority to be insufficient, the local

(a) As to the application of this part of the Act to the Lancashire Asylums Board and to the visiting committees appointed thereby, see the Lancashire County (Lunatic Asylums and Other Powers) Act, 1891, ss. 21, 22, *post*, pp. 503, 504.

Section 238. authority may supply the deficiency by exercising the powers — by this Act conferred for providing asylum accommodation, or by rebuilding or enlarging any existing asylum.

Powers for providing Asylum.—As to the powers by this Act conferred for providing asylum accommodation, see *post*, sections 241—246, pp. 360—363.

The disproportion between the sexes which is constantly observable in regard to the population of asylums (females preponderating over males) must always be borne in mind when an increase of accommodation is under discussion. 34th Rep., p. 83.

(3.) For the purpose of providing asylum accommodation, a local authority may purchase any licensed or other houses and land.

Power to purchase Houses and Land.—The power conferred by that subsection was conferred as accessory to the extension of the powers of the local authority to providing asylum accommodation for private as well as for pauper patients. See section 241, *post*, and notes, p. 360.

(4.) For the purpose of providing asylum accommodation a local authority not being a county council shall have the same powers as are by section sixty-five of the Local Government

51 & 52 Vict. Act, 1888, conferred upon a county council.
c. 41.

As to the construction of this sub-section, see “Opinion of the Law Officers of the Crown,” cited in full at section 260, *post*, p. 371.

Local Authorities other than County Councils.—Local authorities not being county councils are the councils of the boroughs specified in the Fourth Schedule to this Act, as amended by the Lunacy Act, 1891, s. 29, and Schedule, *post*. See also section 240 of this Act, *post*, and notes, p. 359.

Powers under Local Government Act, 1888.—Section 65 of the Local Government Act, 1888, 51 & 52 Vict. c. 41, enacts that—

- “(1.) A county council may, from time to time [for the purpose of any of their powers and duties, including those which are to be executed through the standing joint committee], acquire, purchase, or take on lease, or exchange any lands or any easements or rights over or in land, whether situate within or without the county, and may acquire, hire, erect, and furnish such halls, buildings, and offices as they may from time to time require whether within or without their county.
- “(2.) For the purpose of the purchase, taking on lease, or exchange of such lands, sections one hundred and seventy-six, one hundred and seventy-seven, and one hundred and seventy-eight of the Public Health Act, 1875, shall apply as if they were herein re-enacted, and in terms made applicable to the county council.
- “(3.) Where the county council, with the consent of the Local Government Board, sell any land, the proceeds of such sale shall be applied in such manner as the said Board sanction towards the discharge of any loan of the council, or otherwise for any purpose for which capital may be applied by the council.”

The sections of the Public Health Act, 1875, 38 & 39 Vict. c. 55, above referred to, enact as follows :—

NOTE.

Section 176.—With respect to the purchase of lands by a local authority for the purposes of this Act, the following regulations shall be observed (that is to say),

- (1.) The Lands Clauses Consolidation Acts, 1845, 1860, and 1869, shall be incorporated with this Act, except the provisions relating to access to the special Act, and except section 127 of the Lands Clauses Consolidation Act, 1845 :

- (2.) The local authority before putting into force any of the powers of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement, shall

Publish once at least in each of three successive weeks in the month of November, in some local newspaper circulated in their district, an advertisement describing shortly the nature of the undertaking in respect of which the lands are proposed to be taken, naming a place where a plan of the proposed undertaking may be seen at all reasonable hours, and stating the quantity of lands that they require ; and shall further

Serve a notice in the month of December on every owner or reputed owner, lessee or reputed lessee, and occupier of such lands, defining in each case the particular lands intended to be taken, and requiring an answer stating whether the person so served assents, dissents, or is neuter in respect of taking such lands :

- (3.) On compliance with the provisions of this section with respect to advertisements and notices, the local authority may, if they think fit, present a petition under their seal to the Local Government Board. The petition shall state the lands intended to be taken, and the purposes for which they are required, and the names of owners, lessees, and occupiers of lands who have assented, dissented, or are neuter in respect of the taking such lands, or who have returned no answer to the notice ; it shall pray that the local authority may, with reference to such lands, be allowed to put in force the powers of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement, and such prayer shall be supported by such evidence as the Local Government Board requires :
- (4.) On the receipt of such petition, and on due proof of the proper advertisements having been published and notices served, the Local Government Board shall take such petition into consideration, and may either dismiss the same, or direct a local inquiry as to the propriety of assenting to the prayer of such petition ; but until such inquiry has been made no provisional order shall be made affecting any lands without the consent of the owners, lessees, and occupiers thereof :
- (5.) After the completion of such inquiry the Local Government Board may, by provisional order, empower the local authority to put in force, with reference to the lands referred to in such order, the

Section 238.

NOTE.

powers of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement, or any of them, and either absolutely or with such conditions and modifications as the Board may think fit, and it shall be the duty of the local authority to serve a copy of any order so made in the manner and on the person in which and on whom notices in respect of such lands are required to be served :

Provided that the notices by this section required to be given in the months of November and December may be given in the months of September and October, or of October and November, but in either of such last-mentioned cases an inquiry preliminary to the provisional order to which such notices refer shall not be held until the expiration of one month from the last day of the second of the two months in which the notices are given ; and any notices or orders by this section required to be served on a number of persons having any right in, over, or on lands in common may be served on any three or more of such persons on behalf of all such persons.

Section 177.—Any local authority may, with the consent of the Local Government Board, let for any term any lands which they may possess, as and when they can conveniently spare the same.

Section 178.—The Chancellor and Council of the Duchy of Lancaster for the time being may, if they think fit (but subject and without prejudice to the rights of any lessee, tenant, or occupier), from time to time, contract with any local authority for the sale of, and may (subject as aforesaid) absolutely sell and dispose of, for such sum as to the said Chancellor and Council may appear sufficient consideration, the whole or part of any lands belonging to Her Majesty, her heirs and successors, in right of the said Duchy, or any right, interest, or easement in, through, over, or on any such lands which, for the purposes of this Act, such local authority from time to time deem it expedient to purchase ; and on payment of the purchase money, as provided by the Duchy of Lancaster Lands Act, 1855, the said Chancellor and Council may grant and assure to the said authority, under the seal of the said Duchy, in the name of Her Majesty, her heirs and successors, the subject of such contract or sale, and such money shall be dealt with as if such subject had been sold under the authority of the Duchy of Lancaster Lands Act, 1855.

Redemption of Tithe Rentcharge.—As to the redemption of tithe rentcharge on lands purchased for a lunatic asylum, see notes to section 260, *post*, p. 371.

Powers to be exercised by a visiting committee.

239. A local authority shall exercise the powers conferred by this Act for providing asylum accommodation by a visiting committee, subject, if the local authority thinks fit, to their directions as to which of the methods of providing asylum accommodation authorised by this Act shall be adopted.

Methods of Providing Asylum.—As to the methods of providing asylum accommodation authorised by this Act, see sections 242—246 inclusive, *post*, pp. 360—363.

Local Authority defined.

Section 240.

240. The council of every administrative county and county borough respectively constituted under the Local Government Act, 1888, and the council of each of the boroughs specified in the Fourth Schedule, or in the case of the City of London the common council, shall be a local authority for the purposes of this Act.

Administrative Counties.—By section 100 of the Local Government Act, 1888, 51 & 52 Vict. c. 41, it is enacted (amongst other things) that the expression “administrative county” in that Act, if not inconsistent with the context, means the area for which a county council is elected in pursuance of that Act, but does not (except where expressly mentioned) include a county borough.

Special provision is made as to the county of Lancashire by the Lancashire County (Lunatic Asylums and other Powers) Acts, 1891 and 1902, *post*, pp. 493—516 and 517—525.

The administrative counties which were not entire counties within the meaning of the Local Government Act, 1888, 51 & 52 Vict. c. 41, at the date of the passing of that Act, were the ridings of Yorkshire, the divisions of Lincolnshire, the eastern and western divisions of Sussex under the County of Sussex Act, 1865, 28 & 29 Vict. c. 37, the eastern and western divisions of Suffolk, the Isle of Ely, the residue of the county of Cambridge, the soke of Peterborough, and the residue of the county of Northampton (see section 46 of the Local Government Act, 1888, 51 & 52 Vict. c. 41). To these were added the Isle of Wight, and the residue of the county of Southampton, constituted separate administrative counties by Provisional Orders under sections 52 and 54 of the Act.

Special provision is made for the Isles of Scilly by 53 & 54 Vict. c. clxxvi. See notes to section 243, *post*.

County Boroughs.—By section 31 of the Local Government Act, 1888, it is enacted that each of the boroughs named in the Third Schedule to the Act being a borough which, on the first day of June, 1888, either had a population of not less than 50,000, or was a county of itself, should from and after the appointed day be for the purposes of the Act an administrative county of itself, and is in the Act referred to as a county borough.

The boroughs included in the Third Schedule were—Barrow, Bath, Birkenhead, Birmingham, Blackburn, Bolton, Bootle-cum-Linacre, Bradford, Brighton, Bristol, Burnley, Bury, Canterbury, Cardiff, Chester, Coventry, Croydon, Derby, Devonport, Dudley, Exeter, Gateshead, Gloucester, Great Yarmouth, Halifax, Hanley, Hastings, Huddersfield, Ipswich, Kingston-upon-Hull, Leeds, Leicester, Lincoln, Liverpool, Manchester, Middlesbrough, Newcastle-upon-Tyne, Northampton, Norwich, Nottingham, Oldham, Plymouth, Portsmouth, Preston, Reading, Rochdale, St. Helen's, Salford, Sheffield, Southampton, South Shields, Stockport, Sunderland, Swansea, Walsall, West Bromwich, West Ham, Wigan, Wolverhampton, Worcester, York.

Section 240. As to the county boroughs of Lancashire, see the Lancashire County (Lunatic Asylums, &c.) Acts, 1891 and 1902, *post*, pp. 493—516 and 517—525.

NOTE.

As to Kingston-upon-Hull, see 45 & 46 Vict. c. cxv., and as to Norwich, see 52 & 53 Vict. c. clxxxvii.

To these must now be added the following new county boroughs created under sections 52 and 54 of the Act, viz., Blackpool, Bournemouth, Burton upon Trent, Merthyr Tydfil, Grimsby, Newport (Mon.), Oxford, Rotherham, Smethwick, Southport, Stoke on Trent, Tynemouth, Warrington, West Hartlepool.

Fourth Schedule Boroughs.—The Fourth Schedule to this Act has been amended by section 29 and the schedule to the Lunacy Act, 1891, by striking out the boroughs of Maidstone and Dover as from the commencement of this Act. Other boroughs comprised in that schedule have since ceased to be local authorities under section 246, *post*.

Powers for providing Asylums.

Power to provide asylums for pauper and private patients.

241. A local authority may provide asylum accommodation for pauper and private patients, together or in separate asylums, and may provide separate asylums for idiots or patients suffering from any particular class of mental disorder.

Accommodation for Private Patients.—The Commissioners in Lunacy think it inexpedient to add private departments under the same management to the larger county and borough asylums, so many of which have already attained to unwieldy proportions. In their opinion separate private departments should not as a rule be established in connection with asylums having pauper inmates at all approaching in numbers to 2000. To moderate sized asylums, the Commissioners think a private department in a separate building may sometimes usefully be added (44th Rep., p. 3; 45th Rep., p. 48). See also 48th Rep., p. 68.

The Commissioners in Lunacy were of opinion in 1890 that the larger counties or two or more of the smaller in union might well consider the advisability of exercising this power of providing separate asylums for idiots. Such an asylum, they thought, should be of an inexpensive character, and should not aim at too much in the way of attempts at education or development, but should be mainly a receptacle for unimprovable idiots, in which they would be fed, kept clean, clothed, and treated with kindness, leaving to other and specially equipped institutions the training and development of imbeciles of a higher degree of intelligence (45th Rep., p. 48).

Modes in which asylum may be provided.

242. (1.) For the purpose of providing asylum accommodation, a local authority may do all or any of the following things :—

- (a.) Provide and maintain an asylum alone ;
- (b.) Agree to unite in providing and maintaining a district asylum with any other local authority or local authorities ;

- (c.) Agree to unite with any other local authority or local authorities upon such terms as to payment and otherwise as may be thought proper for the joint use as a district asylum of any existing asylum, and, if they think fit, for the enlargement of the same. Section 242.

See also section 17 of the Lunacy Act, 1891, *post*, p. 478.

Agreements to Unite.—As to agreements to unite, see sub-sections (2) and (3) of this section and sections 248—253, *post*, pp. 363—365.

Form of agreement for Uniting for the purpose of Erecting or Providing an Asylum for the reception of Lunatics, Form 21 in the Second Schedule, *post*, p. 468.

As to the use of this Form, see section 339, *post*, p. 447.

(2.) Where an agreement to unite has been entered into, an agreement for further union may be entered into between all or any of the local authorities concerned, and for all the purposes of this Act an agreement for further union shall be deemed to be an agreement to unite.

(3.) An agreement to unite shall not be carried into effect without the approval of a Secretary of State.

243. (1.) The council of a county borough may contract with the visiting committee of an asylum for the reception of the pauper lunatics of the borough into the asylum. Contract between council of county borough and visiting committee.

As to the liability of boroughs to provide for the maintenance of asylums, even although they may have contracted to pay an annual rent for the use of an asylum to the treasurer of a county asylum, see *Re County Council of Salop* (1891), L. T. 416 ; 56 J. P. 213.

Scilly Isles.—By Art. 25 of the Provisional Order of the Local Government Board confirmed by 53 & 54 Vict. c. clxxvi., the council of the Isles of Scilly may contract with the committee of visitors of any existing asylum for the reception of the pauper lunatics of the Isles of Scilly into such asylum upon such terms as may be agreed upon, or in default of agreement, as may be determined by a Secretary of State.

(2.) Any such contract may be made for such consideration and upon such terms as to duration, determination, and otherwise as may be agreed between the council of the borough and the visiting committee of the asylum.

(3.) While a contract under this section is in force, making adequate provision for the pauper lunatics of the borough, the council of the borough shall not be required to provide an asylum alone or in union.

Expenses on Determination of Contract.—The expenses of removing the lunatics on the determination of the contract will fall on the borough, not on the unions to which the lunatics are chargeable. See 57 J. P. 45.

Section 243. (4.) A contract under this section shall not be carried into effect until approved by a Secretary of State.

Provision for case where a county borough has contributed to the cost of a county asylum.

244. (1.) Where a county borough has contributed to the cost of building and furnishing a county asylum, the existing liability of the borough council shall continue until a new arrangement is made under this section, and the county council shall provide accommodation for and maintain pauper lunatics sent from the borough on the same terms as hitherto.

(2.) Any new arrangement may be made between the county council and all the borough councils concerned with respect to any such asylum; and if any such new arrangement is made, the borough and county councils may carry into effect any adjustment of property, debts, and liabilities which is the subject of such arrangement. If any council desires to make a new arrangement, and any or all of the other councils refuse to agree to the same, the matter shall be referred to the Commissioners under the Local Government Act, 1888, or, after they have ceased to hold office, to arbitration under that Act.

51 & 52 Vict. c. 41.

This sub-section is a re-enactment of the second and third sentences of section 32 (3) (c) of the Local Government Act, 1888, 51 & 52 Vict. c. 41.

Sections 14 and 15 of the Lunacy Act, 1891, *post*, upon the subject of arbitration, provide:—

(14.) “Any question relating to lunatic asylums or the maintenance of lunatics arising between any local authorities under the principal Act, and any boroughs not being local authorities under that Act, and any visiting committees or any two or more of such parties respectively, may be referred to an arbitrator appointed by the parties, or, if the parties cannot agree upon an arbitrator, by the Local Government Board.”

(15.) “The provisions of sub-sections five, six, and seven of section sixty-two of the Local Government Act, 1888, shall apply to every sum by virtue of this Act agreed to be paid or awarded by an arbitrator as if such sum had been agreed to be paid or awarded under section sixty-two of the Local Government Act, 1888.”

Borough contributing to county asylum exempt.

245. (1.) Where any borough specified in the Fourth Schedule contributes to a county asylum, such borough shall, so long as it continues to contribute, be deemed to satisfy the requirements of this Act with respect to asylum accommodation.

(2.) The council of the borough may resolve for the purpose of providing asylum accommodation to separate from the county to which it contributes.

(3.) Notice of the resolution to separate shall be given to the clerk of the county council, and upon the expiration of six months from the date of the notice, the council of the borough

shall be subject to the obligations imposed by this Act of providing asylum accommodation. Section 245.

(4.) Notwithstanding a notice to separate, the council of the borough shall continue liable to contribute to the county asylum, until all the pauper lunatics therein belonging to the borough have been removed.

The expense of removing the pauper lunatics of the borough to the new asylum will fall on the borough fund.

246. Where any borough specified in the Fourth Schedule has contracted for the reception of the lunatics of the borough in the asylum of the county in which the borough is situate, the borough shall, on the determination of the contract, cease to be a local authority under this Act, and [*subject to the enactments providing for an additional charge for the maintenance of lunatics in cases where no contribution has been made towards the cost of building and furnishing an asylum*] shall be liable to contribute to the county rate of the county in respect of such lunatic asylum in like manner as the rest of the county.

Where borough contracts with county powers of borough to provide an asylum to cease on determination of contract.

The words in italics were repealed by section 29 and the schedule of the Lunacy Act, 1891, *post*, and other provision made by sections 13 and 14 of the same Act to meet difficulties brought forward by the case of *Howlett v. Maidstone*, [1891] 2 Q. B. 110; 60 L. J. Q. B. 570; 65 L. T. 448; 40 W. R. 116; 55 J. P. 549; see 55 J. P. 323, 564.

Power of Secretary of State to enforce Act.

247. If the Commissioners report to a Secretary of State that any local authority has failed to satisfy the requirements of this Act as regards asylum accommodation, the Secretary of State may require the local authority to provide such accommodation in such manner as he may direct, and the local authority shall forthwith carry the requisition into effect.

Default by county or borough in providing asylum.

In the last resort the Secretary of State will take proceedings by *mandamus* to enforce the object of the requisition. See 27th Rep., p. 47; 28th Rep., p. 44; 29th Rep., p. 37.

Agreements to unite.

248. (1.) Agreements to unite shall state—

- (a.) The number of visitors to be chosen by each contracting party;
- (b.) The proportion in which the expenses of providing the

Provisions to be contained in agreements to unite.

Section 248. asylum are to be borne by each contracting party, and the basis upon which such proportion is fixed ;

Form 21. (c.) Where the agreement provides for the joint user of an existing asylum, the sum to be paid by each contracting party towards expenses already incurred.

See section 17 of the Lunacy Act, 1891, *post*, p. 478!

Form of Agreement.—Form of Agreement for Uniting for the purpose of Erecting or Providing an Asylum for the reception of Lunatics, Form 21 in the Second Schedule, *post*, p. 468. As to the use of this Form, see section 339, *post*, p. 447.

Variation.—As to subsequent variation of the terms of the Agreement, see section 250, *infra*.

Number of Visitors.—There is now no statutory limit to the number of visitors which may be agreed upon to be chosen by each contracting party. See further as to the number of visitors, section 169 (2), *ante*, p. 308 and section 253, *post*, p. 365.

Apportionment of Expenses.—This section, it will be observed, speaks of the expenses of providing the asylum. It is doubtful whether by section 242 this includes the expenses of maintaining it ; but see further as to the apportionment of the expenses of repairs, alterations, and improvements, section 266 (4), *post*, p. 375. As to the basis of the apportionment of the expenses of providing the asylum, see section 249, *infra*.

Expenses Already Incurred.—As to the application of the sum to be paid for expenses already incurred, see section 252, *post*, p. 365.

(2.) Provisions in any agreement to unite, subjecting the visiting committee to any control not provided for by this Act, except the control of the Secretary of State, shall be of no effect.

Additional Stipulations.—Subject to this sub-section, additional stipulations or conditions over and above those specified in the statutory Form of Agreement for Uniting may be inserted therein if so desired.

Apportion-
ment of
expenses.

249. The proportion in which the expenses of providing a district asylum are to be borne, as between the uniting counties and boroughs, may be fixed either according to the extent of the accommodation required for each county and borough, or in proportion to the respective population of each county or borough according to the last census for the time being.

Re-adjusting Apportionment.—As to re-adjusting the apportionment of expenses, see the notes to the following section.

Power to
vary agree-
ment to
unite.

250. An agreement to unite may with the consent in writing of a majority of the visitors of each contracting local authority and with the sanction of the Secretary of State be altered or varied, but not so as to contain any provision which might not

have been contained in an agreement to unite in the first **Section 250.** instance.

Re-adjusting Apportionment.—The apportionment of expenses under section 249, *ante*, may be re-adjusted under this section and also in the case of an agreement for further union by virtue of section 242 (2), *ante*, p. 361.

As to the mode of procuring the sanction of the Secretary of State, see section 272, *post*, p. 380.

251. (1.) Every agreement to unite shall as soon as possible be reported to the local authorities interested. Agreement to unite to be reported and delivered to clerk of local authority.

(2.) The original of every agreement to unite, and of every agreement varying an agreement to unite, shall be delivered to the clerk of the local authority within whose administrative area the asylum to which the same relates is situate, or is intended to be situate, and shall be kept by him among the records of the local authority.

(3.) The original agreement so delivered may be inspected without payment by any Commissioner and by any member of the council of any of the contracting local authorities. [Inspection of original.]

(4.) The clerk of a local authority to whom any such agreement is delivered shall cause copies to be made thereof, and shall within twenty days after delivery to him of the original send one copy to the Commissioners and another copy to each of the contracting local authorities. [Copies for Commissioners and parties.]

Record and Inspection.—The clerk of each local authority receiving a copy of the original agreement under this sub-section should keep it among the records of the local authority, and allow inspection by any member of the council as the local authority may direct.

252. Where under an agreement to unite a sum is to be paid towards the expenses already incurred by a local authority in relation to an existing asylum, the sum shall be paid to the treasurer of the local authority as part of the county or borough fund and shall be applied to purposes for which capital is properly applicable. Application of money paid for expenses already incurred.

253. When an agreement to unite has been reported, each local authority shall elect out of their body the number of visitors agreed to be chosen by them, and the visitors so chosen shall carry the agreement into effect and shall be the visiting committee of the asylum until the election of a visiting committee in their place. Visitors to be chosen.

Annual Elections.—When the asylum has been established, the visiting committee will be elected annually under sections 169, 170, *ante*, pp. 308, 310.

Section 254.

Purchase of Land and other incidental Powers.

Powers of
committee
to provide
asylum.

254. (1.) A visiting committee authorised to provide asylum accommodation may agree upon plans and estimates, and contract for the purchase of lands and buildings with or without fittings and furniture, and for the erection, restoration, enlargement, and furnishing of buildings, and for the supply of clothing, and for all the matters necessary for carrying into effect the authority conferred upon them.

Architect's Fees.—Where the visiting committee agreed to pay to an architect the sum of 437*l.* 10*s.* for his services in examining the site, preparing the requisite probationary drawings for the approval of the committee, and all other drawings and documents required to be submitted to the Commissioners in Lunacy, and afterwards to the Secretary of State, and subsequently for preparing the whole of the working drawings, estimates, and specifications for an asylum to contain 200 patients, it was held that the architect could recover nothing until the drawings had been approved by the several parties whose approval was required, and the subsequent drawings and estimates all completed: *Moffatt v. Dickson* (1853), 13 C. B. 543; 22 L. J. C. P. 265; 17 Jur. 1009.

Furnishing.—As to the furnishing of the portions of the asylum used by the patients, reference may be made to the remarks of the Commissioners in their 17th Rep., pp. 40—42.

The desire of the Commissioners that due economy should be observed in the equipment of asylums is shown by the following extract from the 55th Rep., p. 11 :—

“ While bearing in mind the primary and fundamental objects of asylums, and desirous in no way to suggest any limitation of their proper equipment for the discharge of their legitimate functions, we view with some concern a growing tendency to extravagance in some of the details to which we have referred, and especially in those parts of the building which are devoted to official and administrative purposes, and we have thought it desirable to prepare and issue the following circular :—

“ ‘ In view of the rapid increase in the price of labour and materials and the corresponding cost of asylum construction, we think it necessary to urge the need of such strict economy in the building, finishing, fitting, and furnishing of asylums as is compatible with the adequate discharge of the objects which are contemplated in their provision—namely, the cure of those who may recover, and the safety and comfort of those whose prospects may be less hopeful.’ ”

“ ‘ While it is necessary to provide solid and substantial structures of adequate but not superfluous strength, and cheerful and comfortable accommodation suitable for the classes of persons who are to be housed and treated within them, all extravagant, and, therefore unsuitable, decoration, both inside and out, should be carefully avoided, and we shall regard it as our duty to advise the Secretary of State to refuse his approval of all plans in which there is an obvious departure from this principle.’ ”

Pathological Laboratories.—As to the provision of rooms and apparatus for pathological studies by the medical staff, see 46th Rep., pp. 46, 47. Section 254.

Hospitals for Infectious Cases.—Several asylums have detached hospitals belonging to them for the isolation and treatment of cases of infectious diseases: see 39th Rep., p. 90; 40th Rep., pp. 48, 49; 41st Rep., p. 73; 43rd Rep., p. 76; 48th Rep., p. 71. Of late years this custom has been extended to large licensed houses, &c.

Chapel.—As to the provision of a detached chapel, see 22nd Rep., p. 5. Chapels are quite commonly provided now, in all large Institutions for the Insane.

(2.) Plans and contracts [for the purchase of lands and buildings, and for the erection, restoration, and enlargement of buildings] agreed upon by a visiting committee shall not be carried into effect until approved by a Secretary of State. [Plans and contracts to be approved by Secretary of State.]

The words in brackets were introduced by section 16 of the Lunacy Act, 1891, *post*, in order to bring the sub-section into conformity with the consolidated enactments.

Submission of Plans to Local Government Board.—In the majority of cases when new asylums, or the improvement of existing asylums, require an outlay of any considerable amount, the money required must be borrowed on the security of the rates (see section 274, *post*, p. 381). Since the Local Government Act, 1888, came into operation, a local authority cannot borrow without the consent of the Local Government Board, and in order to obtain this consent it is necessary to place before the Board the proposed scheme, and plans for carrying it into effect. (See section 69 of the Local Government Act, 1888, 51 & 52 Vict. c. 41.) These plans have previously been examined by the Commissioners in Lunacy, assisted by professional advice, and upon their report approved by the Secretary of State; and the second examination leads often to considerable delay, which under the system prevailing before the Local Government Act, 1888, did not occur. It would be very desirable if the necessity for a double examination and the consequent delay could be avoided: 46th Rep., p. 50.

(3.) A visiting committee shall report to the local authority, or local authorities by whom they were elected, all plans, estimates, and contracts agreed upon, and also the amount to be paid by each local authority, and such plans, estimates, and contracts shall be subject to the approval of the local authority, to whom they are to be reported, except where the amount to be expended does not exceed an amount previously fixed by the local authority. [Plans and contracts to be approved by local authority.]

Time of Approval.—It is not absolutely necessary that a contract agreed upon by the visiting committee should be approved by the local authority before signature by the parties, provided the contract approved of by the local authority is the identical contract entered into and contemplated to be entered into by the visiting committee: *Devenish v. Brown* (1856), 26 L. J. Ch. 23; 2 Jur. (N.S.) 1043.

Section 254. *Powers of Local Authority.*—The local authority have no power to reject the plans, &c., on the ground that the accommodation intended to be provided is for a larger number of lunatics than is required, although they may reject them on the ground of expense. See Opinion of Law Officers : 15th Rep., p. 3, and 16th Rep., p. 4.

NOTE.

[Differences between local authorities to be settled by Secretary of State.]

(4.) In the event of a difference between any local authorities as to whether any plan, estimate, or contract ought to be approved, the local authority withholding approval shall, within four months after the plan, estimate, or contract has been reported to them, send to a Secretary of State, a statement in writing of their objections, and the Secretary of State may direct the plan, estimate, or contract to be carried into execution, with or without any alterations, or he may direct such other plan, estimate, or contract, as he thinks fit, to be carried into execution, and the decision of a Secretary of State under this section shall be final.

Additions to asylums for private patients.

255. The visiting committee of an asylum, with the consent of each local authority by whom the asylum is provided, and with the approval in writing of a Secretary of State, may make such alterations in or additions to the asylum either by way of detached buildings or blocks of buildings or otherwise as they think fit, for the purpose of providing accommodation for private lunatics.

Contracts.

256. (1.) Every person entering into a contract with a visiting committee shall give sufficient security for due performance of the contract.

[Record of contracts.]

(2.) Every such contract and all orders relating thereto shall be entered in a book to be kept by the clerk of the visiting committee, and when the contract is completed, the book shall be deposited and kept among the records of the local authority, or, when more than one local authority is interested, then among the records of the local authority which contributes the largest proportion of the expenses of the contract.

[Inspection of record.]

(3.) Every such book may be inspected at all reasonable times by any person contributing to the rates of the local authority interested in the contract.

[Copy to be kept at asylum.]

(4.) A copy of every such book shall be kept at the asylum to which the contract relates.

Enlargement of district asylum.

257. A district asylum shall not be enlarged or improved without the consent of all the parties to the agreement under which the same is provided.

District Asylums.—As to district asylums, see section 242 (1) (b) and (c), **Section 257.**
ante, pp. 360, 361.

NOTE.

258. (1.) The visiting committee of an asylum, with the consent of the local authority by whom they are appointed and of a Secretary of State, may provide for the burial of lunatics dying in the asylum, and of the officers and servants belonging thereto—

(a.) By appropriating any land already belonging to them, or acquiring any land not exceeding in either case two acres, for enlarging an existing burial ground, or for providing a new burial ground ;

(b.) By agreeing with any corporation or persons or body of persons willing to provide for the burial of such lunatics and other persons as aforesaid.

Provision and Enlargement of Asylum Cemeteries.—"The powers and duties of the Secretary of State under or referred to in the enactments in the First Schedule to this Act shall be transferred to the Local Government Board, and these enactments shall have effect as if any reference therein to a Secretary of State were a reference to the Local Government Board" (The Burial Act, 1900, 63 & 64 Vict. C. 15, s. 4).

Commenting upon this section, the Commissioners in Lunacy, in the 56th Rep., p. 11, say :—

"This recent change in the law affects asylums in the following manner :—

"In places and districts in which, by 16 & 17 Victoria, chapter 134, it was enacted that no new burial ground should be opened or burials continued after an Order in Council prohibiting such opening or burials, without the previous approval of the Secretary of State, no new burial grounds can be provided, nor the enlargement of a burial ground for asylum purposes be effected, without the previous approval of the Local Government Board.

"After which approval only can the Secretary of State consent to the provision or enlargement of such burial ground under section 258 of the Lunacy Act, 1890."

Expenses of Burial of Pauper Lunatics.—The necessary expenses attending the burial of any pauper lunatic, dying in any institution for lunatics, are payable by the union to which he is chargeable, or the local authority liable for his maintenance : see section 297, *post*. The Commissioners in Lunacy entertain strong objections to the separate burial of pauper lunatics as a class. See 18th Rep., pp. 5, 13, 40 n.; 24th Rep., p. 16; 26th Rep., p. 18; 27th Rep., p. 26.

(2.) The committee may procure the consecration of a new or enlarged burial ground, and in the case of a new burial ground, may provide for the appointment of a chaplain therein. [Consecration and chaplain.]

Section 258. (3.) The incumbent of the parish in which a new or enlarged burial ground, provided by a visiting committee, is situate, shall not be entitled to any fee for the interment of any person buried therein by direction of the committee.

[No fees to incumbent.]

Burial of lunatics.

259. Where a visiting committee undertakes the burial of any pauper lunatic, and the public burial ground of the parish where the death took place is closed or inconveniently crowded, the burial may take place in a public burial ground of some other parish, with the consent of the minister and churchwardens of that parish; and in that case the visiting committee shall pay to the person entitled thereto the burial fees payable under any Act, or according to the custom of the place of burial.

Obligation of Visiting Committee to undertake Burial.—The visiting committee is bound at common law to provide for the decent interment of any lunatic dying in the asylum: *Reg. v. Stewart* (1840), 12 A. & E. 773; 10 L. J. M. C. 40; *Reg. v. Price* (1884), 12 Q. B. D. 247; 53 L. J. M. C. 51; 33 W. R. 45; 15 Cox C. C. 389.

Repayment of Fees and Expenses.—The fees paid by the visiting committee under this section, as well as the other necessary expenses attending the burial of any pauper lunatic dying in the asylum, will be repayable by the union to which the lunatic was chargeable, or by the local authority liable for his maintenance: see section 297, *post*, p. 410.

Burial Fees when payable.—Burial fees are due only by some immemorial custom or Act of Parliament: *Spry v. Gallop* (1847), 16 M. & W. 716; 16 L. J. Ex. 216. No burial fee is due at common law, and the taking of such fees is forbidden by the canon law. But by immemorial custom, fees (which must be both reasonable and certain: *Bryant v. Foot* (1868), L. R. 3 Q. B. 497; 37 L. J. Q. B. 217; 18 L. T. (N.S.) 587; 16 W. R. 808; 9 B. & S. 444) are in many places payable to the parson and churchwardens: *Andrews v. Cawthorne* (1744), Willes, 536; *Gilbert v. Buzzard* (1820), 3 Phill. 360; 2 Hagg. Cons. 333; *Andrews v. Symson* (1675), 3 Keb. 504, 523, 527; 1 Vent. 274; *Waring v. Griffith* (1758), 1 Burr. 441; 2 Kenyon, 183. Burial fees may also be due by Act of Parliament. By section 34 of the Burial Act, 1852, 15 & 16 Vict. c. 85, every burial board under that Act may [subject to the approval of the Home Secretary (section 7 of the Burial Act, 1855, 18 & 19 Vict. c. 128)] fix and settle such fees as they may think fit, and, with the consent [of the Home Secretary and] of the vestry, may revise the same. A list of such fees must be printed and affixed in some conspicuous part of the burial ground. By section 17 of the Burial Act, 1857, 20 & 21 Vict. c. 81, the fees for burials in the unconsecrated part of the burial ground must be the same as for the consecrated part, less any portion of such corresponding fees due to any incumbent, churchwarden, clerk, or sexton. By section 32 of the Burial Act, 1852, 15 & 16 Vict. c. 85, the incumbent, clerk, or sexton of a parish for which a burial ground is provided (except in the city of London or the liberties thereof, as to which see sections 3 and 5 of the Burial Act, 1857, 20 & 21 Vict. c. 35), are entitled

to receive the same fees in respect of the burial in a new burial ground of **Section 259.** the remains of parishioners or inhabitants of the parish as they previously respectively enjoyed. But the incumbent is not entitled to any fee for burial unless he actually performs the service: *Wood v. Headingley Burial Board*, [1892] 1 Q. B. 713; 66 L. T. 90; 40 W. R. 390; 56 J. P. 326. See also as to what burial fees are payable; *Williams v. Briton Ferry Burial Board* (1905), 2 K. B. 565; 74 L. J. (K.B.) 840; 92 L. T. 697; 69 J. P. 313; 54 W. R. 187; 3 L. G. R. 859.

260. For the purpose of the purchase of lands by visiting committees, the Lands Clauses Acts are hereby incorporated with this Act, except the provisions relating to the purchase of land otherwise than by agreement, the sale of superfluous lands, the recovery of forfeitures, penalties, and costs, and access to the special Act, and the expression "promoters of the undertaking," wherever used in the Lands Clauses Acts, shall mean a visiting committee, and the expression "special Act" shall mean this Act. Incorporation of Lands Clauses Acts.

Lands Clauses Acts.—By section 23 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, it is enacted, amongst other things, that in any Act passed after the commencement of this Act, unless the contrary intention appears, the expression "Lands Clauses Acts" shall mean, as respects England and Wales, the Lands Clauses Consolidation Act, 1845 (8 & 9 Vict. c. 18), the Lands Clauses Consolidation Acts Amendment Act, 1860 (23 & 24 Vict. c. 106), the Lands Clauses Consolidation Act, 1869 (32 & 33 Vict. c. 18), and the Lands Clauses (Umpire) Act, 1883 (46 & 47 Vict. c. 15), and any Acts for the time being in force amending the same.

Purchase from Limited Owners.—This section enables parties having limited interests to contract with the visiting committee for the purchase of lands from them by the committee, though the committee have no compulsory powers of purchasing: *Devenish v. Brown* (1856), 26 L. J. Ch. 23; 2 Jur. (N.S.) 1043, but with regard to the compulsory powers of purchase conferred by the Act, the following opinion has been expressed by the Law Officers of the Crown, 26th July, 1901:—

"1. If the question of the power of the County Council to purchase land by compulsion for Asylum purposes depended simply upon the Local Government Act of 1888, we should say that this power did not exist. The Visiting Committees were continued with their old powers, and the general provisions of section 65, could not on the construction of that Act be read as superseding the specific restrictions on Visiting Committees in this matter. But the Lunacy Act, 1890, seems to us to put this matter upon a different footing. Section 238 (sub-section 4) specifically confers upon local authorities other than County Councils for the purpose of providing Asylum accommodation the same powers as are by section 65 of the Local Government Act, 1888, conferred on a County Council. This sub-section would be entirely nugatory if it were not regarded as a legislative recognition that County Councils have such powers for the purpose of

Section 260. providing Asylum accommodation. We are therefore disposed to think that this Act would be read as conferring upon County Councils and other local authorities power to purchase land by compulsion for Asylum purposes. Some confirmation is given to this view by the fact that it is obligatory on all local authorities to provide Asylums (section 238 (1)), and that the Secretary of State may require the local authority to provide such accommodation (section 247)."

NOTE.

"There are, moreover, other purposes for which the Visiting Committee may have to acquire land (section 258 (1)), and the incorporation for the purpose of the purchase of land by the Visiting Committees of the Lands Clauses Act with the exception of the provisions as to compulsory purchase and certain other provisions is not altogether inconsistent with a power to acquire the right of compulsory purchase by Provisional Order under the conditions imposed by the sections incorporated with section 65 of the Local Government Act, 1888."

"Although the question, in consequence of the manner in which the Acts are framed, is one of difficulty, we think the above is the view which should be acted on."

"2. We think that the power ought to be exercised by the local authority by its Visiting Committee subject to any direction given by the Local Authority under section 239, and although section 254 does not in terms deal with compulsory purchase we think that, as a matter of prudence the Visiting Committee ought to have the sanction of the Local Authority before they proceed so to purchase."

"The necessary notices and proceedings should be in the names of the Local Authority, and the Visiting Committee." (Fifty-sixth Report of the Commissioners in Lunacy, pp. 10—11).

Redemption of Tithe Rentcharge.—Special provision is made for the redemption of tithe rentcharge on lands taken for the erection of a lunatic asylum, or the enlarging and improving of the premises or buildings occupied and used as a lunatic asylum, by section 1 of the Tithe Rentcharge Amendment Act, 1878, 41 & 42 Vict. c. 42.

Power to take land on lease. **261.** (1.) A visiting committee, instead of purchasing any land or buildings which they are authorised to purchase, may take a lease thereof for any term not less than sixty years, at such rent and subject to such covenants as the committee think fit.

[Land for employment or temporary accommodation of patients.]

(2.) A visiting committee, with the sanction of each local authority for whom they are authorised to act, may hire, or take on lease from year to year, or for any term of years, at such rent and subject to such covenants as they think fit, any land or buildings for the employment of the patients in the asylum, or for the temporary accommodation of any pauper lunatics for whom the accommodation in the asylum is inadequate.

(3.) Lands and buildings hired or taken on lease under this section shall be deemed part of the asylum, and be subject to all existing provisions as to the asylum.

Section 261.

[Land, &c.,
taken to be
part of
asylum.]

262. The asylum to be provided by any local authority either solely or jointly, may be situate without the limits of the administrative area of the local authority, and if the asylum or any part thereof is so situate, the council and justices of the county, county borough, or borough to which the asylum wholly or in part belongs shall have full power and authority to act in the county or borough in which the asylum is situate, so far as concerns the regulation of the asylum and the powers conferred by this Act, as if the asylum were situate within the proper jurisdiction of such council and justices.

Situation
of asylum.

263. Lands and buildings already or to be hereafter purchased or acquired for the purposes of any asylum, and any additional building erected or to be erected thereon, shall, while used for those purposes, be assessed to county, parochial, district, and other rates made after the commencement of this Act on the same basis and to the same extent as other lands and buildings in the same parish, township, or district.

Rating of
asylums.

Basis of Rating.—In principle, the rating of an asylum does not differ from the rating of any other hereditament. The gross estimated rental (Union Assessment Committee Act, 1862, s. 15) is the rent at which the hereditament might reasonably be expected to let from year to year, the tenant paying all usual rates and taxes and tithe commutation rent-charge, if any, and the net annual or rateable value, upon which the rates are paid, means the gross value after deducting therefrom the probable annual average cost of the repairs, insurance, and other expenses, if any, necessary to maintain the hereditament in a state to command the rent (Valuation (Metropolis) Act, 1869, s. 4). This applies both inside and outside the Metropolis.

The rental value is a question of fact; and it will be for the court to decide what evidence in support of it, it will hear. Where rent is paid, it is good, but not conclusive, evidence of value. Where the hereditament is occupied by the owners, evidence of the rental value of other similar hereditaments may be given. Where no such evidence is obtainable, quarter sessions usually estimates the rental value by taking the interest on the structural and site value. See the judgments in *London County Council v. Erith*, [1893] A. C. 562.

Considerable difficulties arise in valuing asylums owing to the fact that they are frequently occupied by the owners, when the evidence of rental paid is absent, and that there are no other hereditaments of a similar description with which any reliable comparison can be made.

Rates on a county asylum should be charged to maintenance account: *Reg. v. Dolby*, [1892] 2 Q. B. 301.

Section 263. *Land Tax.*—A lunatic asylum is not exempt from assessment to land tax : 58 J. P. 355.

NOTE.

How lands to be conveyed.

264. Any lands acquired for the purposes of this Act may be conveyed to the local authority being a county council, or in cases where the local authority is the council of a borough to the municipal corporation of the borough, or where more than one local authority is interested, to the local authorities interested as joint tenants.

Power to retain land unsuitable or not required for asylum purposes.

265. Any lands or buildings which have been used for the purposes of an asylum, and have been found unsuitable, or are otherwise not required for such purposes, may, with the consent of a Secretary of State, and subject to such conditions as he thinks fit to impose, be retained by the local authority, and appropriated for any purposes for which the local authority is empowered to acquire land.

Repairs, alterations, improvements.

266. (1.) The visiting committee of an asylum may, on their own authority, order all necessary and ordinary repairs. They may also, of their own authority, order all necessary and proper additions, alterations, and improvements which the asylum may require, to an amount not exceeding four hundred pounds in any one year.

When Secretary of State's Approval Necessary.—The power given to the visiting committee by this sub-section to order of their own authority additions, alterations, and improvements, the expenses of which do not exceed 400*l.* in any one year, has reference to section 254 (3), *ante*, whereby it is provided that all plans, estimates, and contracts shall be subject to the approval of the local authority ; and the effect of this sub-section is to dispense with that approval where the expense to be incurred falls within the prescribed limit. But section 254 (2) has reference to all plans for (amongst other things) restoring or enlarging any asylum, irrespective of the question of expense, and consequentially all such plans should be submitted to the Board of Control and approved by the Secretary of State before being carried out. If the works done under this sub-section are either mere repairs or alterations in matters of detail, not involving plans for the restoration or enlargement of the asylum, they will not be within section 254 (2), *ante*. See Opinion of Law Officers, 20th Rep., p. 43 ; 27th Rep. p. 24, and Appendix (D.). It was decided, however, by the Court of Queen's Bench, in the case of the Hull Borough Asylum, that the submission of the plans to the Home Secretary after the completion of the works cannot be enforced by *mandamus* although they ought to have been submitted to him prior to the commencement of the works : 20th Rep., p. 44. In any case of doubt whether the approval of the Secretary of State is necessary or not, it is better to obtain it as a matter of precaution, for fear that the expenditure may not be legally payable out of the county or borough fund : 31st Rep., p. 86.

As to carrying surplus profits from private patients to the building and repair fund, see section 271 (2), *post*, p. 380. Section 266.

NOTE.

Abatement of Nuisance.—As to the duty of the visiting committee in abating a nuisance arising from the pollution of a stream by sewage from the asylum, see *Attorney-General v. Colney Hatch Lunatic Asylum* (1868), L. R. 4 Ch. 147; 38 L. J. Ch. 265; 19 L. T. (N.S.) 708. See also *Metropolitan Asylum District v. Hill* (1881), 6 App. Cas. 193; 50 L. J. (Q.B.) 353; 44 L. T. 653; 45 J. P. 664; 29 W. R. 617.

(2.) An order for repairs, additions, alterations, or improvements to an amount exceeding one hundred pounds shall not be given, unless the order is approved and signed by at least three visitors at a meeting of the visiting committee duly summoned upon notice that the proposed expenditure is to be considered thereat. [Orders for repairs over 100*l*.]

(3.) Any expenditure incurred, except for repairs, shall be reported by the visiting committee to the local authority on whose behalf the expenditure was incurred. [Reports to local authority.]

(4.) In the case of a district asylum, the visiting committee shall apportion expenses incurred under this section in the proportion in which each local authority has contributed to the erection of the asylum, or where any other proportion is fixed by an agreement to unite then in the proportion so fixed; and where any such agreement only provides in what proportion the expense of repairs shall be borne, the expense of additions, alterations, and improvements shall be borne in the same proportion. [Apportionment of repairs to district asylum.]

(5.) The visiting committee shall make an order for payment of the expenses incurred under this section upon the treasurer of the local authority, or, in the case of a district asylum, shall make an order upon the treasurer of each local authority concerned for payment of the expenses apportioned to that local authority, and the treasurer upon whom the order is made shall pay the amount mentioned in the order out of the county or borough fund. [Orders for payment to be made on treasurer of local authority.]

Sanction of County Council Finance Committee.—It is not necessary that payments in respect of which a visiting committee appointed by a county council are entitled to make orders on the county treasurer should be authorised by the finance committee of the county council under section 80 of the Local Government Act, 1888. See Opinion of Law Officers, 19th Ann. Rep. L. G. B., p. xlviii., and Appendix (A.), p. 9.

Section 267.

Dissolution of Agreement to unite.

Power to
dissolve
a union.

267. (1.) A visiting committee, with the consent of a Secretary of State, may by a resolution passed by a majority of the whole number of the members of the committee at a meeting summoned upon notice that the resolution is to be proposed thereat dissolve an agreement to unite.

The power of dissolution under this sub-section is given to the visiting committee, because they represent all the parties to the agreement for uniting; and as the dissolution cannot be carried simply by a majority of the committee present at the meeting called for the purpose, but only by a majority of the whole number of visitors, the question is sure to be decided by those who would otherwise be most interested in the continuance of the agreement if it were desirable.

(2.) Every local authority interested under an agreement to unite shall, before a dissolution of the agreement takes effect, elect a committee to provide asylum accommodation in accordance with the provisions of this Act.

(3.) In case an agreement to unite is dissolved between any local authority not having an asylum and a local authority which has an asylum and is in receipt of an annual fixed payment as remuneration for any expenses incurred for the benefit of the local authority making the payment, such last-mentioned local authority may raise such a sum of money for compensation to the local authority receiving the payment as may be agreed upon and approved by the visiting committee by whom the union is dissolved.

(4.) Upon the dissolution of an agreement to unite the visiting committee may divide the real and personal property held for the purposes of the agreement among the several local authorities, between whom the agreement existed, in the proportion in which they contributed thereto or are interested therein, or in such proportions as the visiting committee, with the consent of a Secretary of State, think fit. And a sum of money of such amount, and to be raised by any of the local authorities parties to the agreement in such proportions as the committee, with the consent of a Secretary of State, approve, may be awarded to any local authority instead of a share or part of a share in such property.

(5.) Any money to be raised under this section may be raised in the same manner and by the same means as other moneys appointed to be raised for the purposes of this Part of this Act.

Raising of Moneys.—As to the manner and means of raising money for Section 267. the purposes of this Part of this Act, see section 274, *post*, p. 381.

NOTE.

Cancellation of Contracts.

268. (1.) Where any lands contracted to be purchased or taken in exchange by a visiting committee are found unsuitable, or are not required, the committee, or any committee appointed in their place, may, with the consent of a Secretary of State, and upon payment of such sum, if any, as a Secretary of State approves, procure a release from the contract and execute a release to the other contracting party.

Power to
cancel
contract.

The other contracting party is not bound to accept a release under this section, but the section merely enables the visiting committee to give a valid release if the other party agrees to accept it.

(2.) The consideration, if any, for such release, and all expenses in relation to the contract and release, shall be raised in the same manner as if the same were payable in respect of the purchase money of lands for the purposes aforesaid.

Raising of Money.—As to the raising of money payable in respect of the purchase money of lands for the purposes of asylum accommodation, see sections 273, 274, *post*, pp. 380, 381.

Admission of Pauper Lunatics from other Counties or Boroughs.

269. (1.) A visiting committee (in this section called the contracting committee) may contract with the manager of a licensed house, or subject as in this section provided with any other visiting committee (in this section called the receiving committee), for the reception into that house, or into the asylum of the receiving committee, of all or any of the pauper lunatics of the local authority for which the contracting committee is acting, or for the use and occupation of the whole or any part of the house, upon such terms as may be agreed.

Power to
contract for
reception of
lunatics.

(2.) Where a contract between a visiting committee and the subscribers to a hospital for the reception of pauper patients into the hospital was subsisting on the twenty-sixth of August, one thousand eight hundred and eighty-nine, such contract shall continue in force, and on its expiration a new contract may be entered into with such subscribers subject to the provisions of this section.

[Saving for
certain con-
tracts with
hospitals.]

See now section 17 of the Lunacy Act, 1891, *post*, p. 478.

Section 269. (3.) A contract between a visiting committee and any other visiting committee or the manager of a licensed house or the subscribers to a hospital for the reception of the lunatics of the local authority for which the contracting committee is acting (hereinafter called a reception contract) shall not be made for more than five years, but such contract may be renewed subject to the provisions of this section.

[Duration and renewal of reception contracts.]

(4.) Where a reception contract has been made, whether before or after the passing of this Act, on behalf of a borough with the visiting committee of an asylum, and the contract is determinable by the parties thereto, or either of them, the contract shall not be determined without the consent of a Secretary of State.

It will be observed that it applies to contracts made before the passing of this Act as well as to future contracts.

[Consent of Secretary of State to determination of contract.]

(5.) A reception contract shall not be carried into effect until approved by a Secretary of State, and any reception contract may be determined by a Secretary of State.

Approval of Secretary of State.—As to obtaining the approval of a Secretary of State, see section 272, *post*, p. 380.

[Determination of contract with manager of licensed house.]

(6.) A reception contract with the manager of a licensed house shall determine if the house ceases to be licensed.

[Effect of determination of contract by Secretary of State.]

(7.) A reception contract shall not exempt the local authority for which the contracting committee is acting from the requirements of this Act as regards asylum accommodation if a Secretary of State determines the contract, although the term for which the contract was entered into has not expired.

[Contracts with hospitals generally not allowed.]

(8.) Except as in this section provided a visiting committee shall not (*after the commencement of this Act*) enter into a reception contract with subscribers to a hospital.

The words in brackets were repealed by the Statute Law Revision Act, 1908.

[Payments in exoneration of union of charge-ability.]

(9.) Where a reception contract has been made by a visiting committee, the local authority for whom the visiting committee acts shall, while the contract subsists, defray out of the county or borough fund so much of the weekly charge agreed upon for each pauper lunatic as in the opinion of the visiting committee represents the sum due for the accommodation, not exceeding one-fourth of the entire weekly charge, in exoneration to that

extent of the union to which the maintenance of any such pauper lunatic is chargeable. **Section 269.**

As to the weekly sum which may be charged by the Visiting Committee of County or Borough Asylums for out-county patients, the following extract from the 52nd Report of the Commissioners in Lunacy, pp. 9-10, is in point :—

“ The question having been referred to us whether the visiting committee of a county or borough asylum is entitled to charge a larger weekly sum than 14s. for out-county patients, we thought it advisable to submit a case for the consideration of the Law Officers of the Crown, who informed us that, in their opinion, such larger charge could legally be made.”

(10.) Where a reception contract has been entered into by the visiting committee of an asylum with the subscribers to a hospital or the manager of a licensed house, the hospital or house may be visited by any members for the time being of the committee of the asylum. [Visitation by asylum committee of lunatics in hospitals or licensed houses.]

270. (1.) Where it appears to the visiting committee of an asylum that the asylum is more than sufficient for the pauper lunatics who for the time being can be lawfully received, the committee may by resolution permit any other pauper lunatics to be received into the asylum. Cases where asylum is more than sufficient for pauper lunatics.

It will be observed that a resolution under this sub-section extends only to the admittance of pauper lunatics.

(2.) A resolution under this section may require that no pauper lunatic be admitted thereunder without an undertaking by the minute of the guardians of the union to which the lunatic is chargeable for the payment of the expenses of maintenance of the lunatic, and of his burial if he dies in the asylum, as well as for his removal within six days after notice from the manager of the asylum. [Undertaking by guardians to pay expenses and to remove lunatic.]

(3.) A resolution under this section may be rescinded or varied. [Rescinding or variance of resolution.]

Admission of Private Patients.

271. (1.) Private patients may be received into any asylum upon such terms as to payment and accommodation as the visiting committee think fit. All enactments as to the conditions on which such lunatics may be received into hospitals or licensed houses shall be applicable to private patients received into such asylums. Provisions as to private patients in asylums.

Section 271. (2.) An account of the amount, by which the sums charged for private patients received in the asylum exceed the weekly charges for pauper lunatics sent from or settled in any place, parish, or borough which has contributed to provide the asylum, shall be made up to the last day of each year, and the surplus, if any, after carrying to the building and repair funds such sums, and providing for such outgoings and expenses as the visiting committee consider proper, shall be paid to the treasurer of the local authority to which the asylum belongs, or in the case of an asylum belonging to several local authorities, to their respective treasurers in the proportions in which such local authorities or the justices of the counties and boroughs whose powers have been transferred to them have contributed to the asylum, and shall be applied as part of the county or borough fund.

[Accounts of surplus of charges and application thereof.]

Transfer of Powers.—The reference to the transfer of powers of justices to local authorities refers to the transfer effected by the Local Government Act, 1888, 51 & 52 Vict. c. 41.

Lancashire.—Special provision is made with reference to the profits derived from private patients in asylums under the Lancashire County (Lunatic Asylums, &c.) Act, 1891, by section 23 of that Act, *post*, p. 505.

Approval of Secretary of State.

Mode of obtaining approval of Secretary of State.

272. For the purpose of procuring the approval of a Secretary of State to any agreement, contract, or plan requiring approval under this Act, the agreement, contract, or plan, with an estimate of the probable cost of carrying it into effect, shall be submitted to the Commissioners, and to the Secretary of State, and the Commissioners shall make such inquiries as they think fit, and shall report thereon to the Secretary of State, who may approve the agreement, contract, or plan, with or without modification, or may refuse his approval.

Provisions for raising Expenses.

[Payment of expenses.]

273. The expenses to be paid and contributed by a local authority for the purposes of this Act shall be paid by the treasurer of the local authority out of the county or borough fund as the case may be to the treasurer of the asylum to which such local authority either alone or jointly pays or contributes.

Lancashire.—This section has no application to expenses of local authorities which are subject to the Lancashire County (Lunatic Asylums, &c.) Act, 1891; see sections 22 and 23 of that Act, *post*, pp. 504, 505.

Borrowing Powers.

Section 274.

274. (1.) For the purpose of paying any money payable under this Act, or for repaying any moneys borrowed under this Act or any former Act, authorising borrowing for purposes of asylum accommodation, the local authority may, with the consent of the Local Government Board, and subject to the provisions of the Local Government Act, 1888, and the Municipal Corporations Act, 1882, according as the same respectively are applicable to the local authority, borrow on the security of the county or borough fund, and of any revenue of the local authority, or on either such fund or revenues or on any part of the revenues, such moneys as the local authority requires.

Power to
borrow.

51 & 52 Vict.

c. 41.

45 & 46 Vict.

c. 50.

Lancashire.—This section has no application to local authorities which are subject to the Lancashire County (Lunatic Asylums, &c.) Act, 1891; see sections 22 and 31 of that Act, *post*, pp. 504, 509.

Borrowing Powers of County Councils.—Section 69 of the Local Government Act, 1888, 51 & 52 Vict. c. 41, relates to borrowing by a county council, and enacts (amongst other things) as follows, viz. :—

(1.) The county council may, from time to time, with the consent of the Local Government Board, borrow on the security of the county fund, and of any revenues of the council, or on either such fund or revenues, or any part of the revenues, such sums as may be required for the following purposes, or any of them, that is to say :

* * * * *

(e.) For any purpose for which quarter sessions or the county council are authorised by any Act to borrow,

but neither the transfer of powers by this Act nor anything else in this Act shall confer on the county council any power to borrow without the consent above mentioned, and that consent shall dispense with the necessity of obtaining any other consent which may be required by the Acts relating to such borrowing, and the Local Government Board before giving their consent shall take into consideration any representation made by any ratepayer or owner of property rated to the county fund.

(2.) Provided that where the total debt of the county council, after deducting the amount of any sinking fund, exceeds, or if the proposed loan is borrowed will exceed, the amount of one-tenth of the annual rateable value of the rateable property in the county, ascertained according to the standard or basis for the county rate, the amount shall not be borrowed, except in pursuance of a provisional order made by the Local Government Board and confirmed by Parliament.

(3.) A county council may also from time to time, without any consent of the Local Government Board, during the period which was fixed for the discharge of any loan raised by them under this Act or transferred to them by this Act, borrow on the like security such amount as may be required for the purpose of paying off the whole or any part of such loan, or if any part of such loan has been repaid otherwise than by capital money, for

Section 274. reborrowing the amount so repaid, and for the purposes of this section "capital money" includes any instalments, annual appropriations, and sinking fund, and the proceeds of the sale of land or other property, but does not include money previously borrowed for the purpose of repaying a loan.

NOTE.

(4.) All money reborrowed shall be repaid within the period fixed for the discharge of the original loan, and every loan for reborrowing shall for the purpose of the ultimate discharge be deemed to form part of the same loan as the original loan, and the obligations of the council with respect to the discharge of the original loan shall not be in any way affected by means of the reborrowing.

(5.) A loan under this section shall be repaid within such period, not exceeding thirty years, as the county council, with the consent of the Local Government Board, determine in each case.

(6.) The county council shall pay off every loan either by equal yearly or half yearly instalments of principal, or of principal and interest combined, or by means of a sinking fund set apart, invested, and applied in accordance with the Local Loans Act, 1875, and the Acts amending the same.

* * * * *

(8.) Where the county council are authorised to borrow any money on loan they may raise such money either as one loan or several loans, and either by stock issued under this Act or by debentures or annuity certificates under the Local Loans Act, 1875, and the Acts amending the same, or, if special reasons exist for so borrowing, by mortgage in accordance with sections 236 and 237 of the Public Health Act, 1875.

(9.) Provided that where a county council have borrowed by means of stock they shall not borrow by way of mortgage except for a period not exceeding five years.

(10.) Where the county council borrow by debentures such debentures may be for any amount not less than five pounds.

* * * * *

(12.) Nothing in this section shall be taken to empower the Cheshire County Council to borrow on the security of any revenue estimated to accrue from the surplus funds of the River Weaver Navigation.

The Local Loans Act, 1875, referred to in sub-sections (6) and (8) above cited, is the 38 & 39 Vict. c. 83. It is amended as to sinking funds by the Local Loans Sinking Funds Act, 1885, 48 & 49 Vict. c. 30.

Sections 236 and 237 of the Public Health Act, 1875, 38 & 39 Vict. c. 55, referred to in sub-section (8) above cited, provide as follows:—

Section 236.—Every mortgage authorised to be made under this Act shall be by deed, truly stating the date, consideration, and the time and place of payment, and shall be sealed with the common seal of the local authority, and may be made according to the form contained in Schedule IV. to this Act, or to the like effect.

Section 237.—There shall be kept at the office of the local authority a register of the mortgages on each rate, and within fourteen days after the date of any mortgage an entry shall be made in the register of the number and date thereof, and of the names and descriptions of the parties thereto

as stated in the deed. Every such register shall be open to public inspection during office hours at the said office, without fee or reward; and any clerk or other person having the custody of the same, refusing to allow such inspection, shall be liable to a penalty not exceeding five pounds.

Section 274.

NOTE.

(2.) The Public Works Loan Commissioners may, if they see fit, make any loan for the purposes of this Act to the local authority upon the security of any fund or revenues applicable to the purposes of this Act.

[Loans by Public Works Loan Commissioners.]

Rules and Regulations.

275. (1.) The visiting committee of an asylum shall within twelve months after the completion of the asylum prepare and submit to a Secretary of State general rules for the government of the asylum, and such rules when approved by a Secretary of State shall be printed and observed.

[General rules and regulations to be framed.]

(2.) The general rules of every asylum may be altered and varied with the approval of a Secretary of State.

[Alteration of general rules.]

(3.) The visiting committee shall also make regulations (not inconsistent with the general rules) setting forth the number and description of officers and servants and their respective duties and salaries.

[Regulations as to officers and salaries.]

(4.) The regulations may provide that any number of beds in such part of the asylum as the committee think fit shall be reserved for the cases specified in the regulations, and in that case the asylum shall for the purposes of this Act, as respects the admission of cases not within the class for which beds are reserved, be deemed full when there are no vacant beds except those so reserved, but the committee may, if they think fit, fill any reserved beds.

[Regulations as to reserved beds.]

Asylum Full.—As to the effect of the asylum being deemed full, see section 27 (2), *ante*, p. 188.

(5.) The regulations may also provide for the exclusion of any persons afflicted with any malady which the visiting committee deem contagious or infectious or coming from a place in which such a malady may be prevalent, and for the absence for a period not exceeding four days of a patient from the asylum by permission of the manager.

[Regulations as to contagious or infectious disease.]

For notification of cases of infectious disease in asylums in districts to which the Infectious Diseases (Notification) Act, 1889, 52 & 53 Vict. c. 72 applies, the medical officer of the asylum is entitled to a fee of one shilling per case under section 4 of that Act.

Section 275. *Absence by Permission of Manager.*—The saving clause in section 124 of the Lunatic Asylums Act, 1853, contained no limit of time in respect of the period of absence, but the practice was to adopt the limit fixed by the present enactment. In 1869 the question of the legality of such regulations having been raised, a case was submitted by the Commissioners in Lunacy to the Law Officers of the Crown in these terms: "A question having arisen as to the extent of the operation of the saving clause in the 124th section of the Act 16 & 17 Vict. c. 97, your opinion is requested upon the construction of that clause, and especially you are desired to advise whether a committee of visitors of a county asylum can or cannot under that clause legally authorise, by their regulations, the superintendent of the asylum to give temporary leave of absence to any patient, and, if so, for how long a period?" And the following opinion was given thereon: "We think that section 124 of the statute contemplates that a lunatic patient may be temporarily absent under regulations of the committee of visitors, and that such temporary absence is not the same thing as absence 'on trial' under an order granted in pursuance of section 79 of the Act (see now section 55, *ante*). We incline to think, too, that a lunatic who stayed away after the period for which he was let out might be re-taken under the order, but this is certainly open to considerable doubt. If temporary absence be permitted, there are no particular number of days for which it may be given. Three or four days would, we think, be a not unreasonable limit:" 23rd Rep., p. 100. Having regard to the question of overstaying leave, the practice is to require a written undertaking from the friends of the lunatic to bring him back within the stipulated time.

NOTE.

[Diet.]

(6.) The committee shall also determine the diet of the patients.

Inquiries as to Diet.—Under section 187, *ante*, the visiting Commissioners and visitors are to inquire as to the dietary of the pauper patients.

Officers of Asylums.

Officers of
asylums.

276. (1.) The visiting committee of every asylum shall appoint:—

- (a.) A chaplain, who shall be in priest's orders, and shall be licensed by the bishop of the diocese;
- (b.) A medical officer, who shall reside in the asylum and shall not be the clerk or treasurer of the asylum;
- (c.) A superintendent of the asylum, or, if there is more than one division, a superintendent of each division of the asylum, who shall be the resident medical officer or one of the resident medical officers of the asylum, or of the division of which he is appointed superintendent, unless a Secretary of State authorise the

committee to appoint some other person than a medical officer to be superintendent ; Section 276.

- (d.) A clerk ;
- (e.) A treasurer ;
- (f.) Such other officers and servants as they think fit.

Lancashire.—As to the application of this section to asylums subject to the Lancashire County (Lunatic Asylums, &c.) Act, 1891, see section 14 of that Act, *post*, p. 502.

Residence of Chaplain.—The chaplain is not required by the statute to reside in the asylum, but the visiting committee may properly require him to do so, and it is not a misapplication of the funds to provide a house for him therein: *Congreve v. Upton Overseers*, (1864) 4 B. & S. 857; 33 L. J. M. C. 83; 9 L. T. (N.S.) 684; 10 Jur. (N.S.) 538; 12 W. R. 403.

Qualifications and Residence of Medical Officers.—As regards the medical officers, it is provided (amongst other things) by section 36 of the Medical Act, 1858, 21 & 22 Vict. c. 90, that no person shall hold any appointment as a physician, surgeon, or other medical officer in any lunatic asylum unless he be registered under that Act. See also the Medical Act, 1886, 49 & 50 Vict. c. 48.

As to the disqualification of the medical officers for signing certificates accompanying the reception orders on which patients are received into the asylums, see section 32, *ante*, p. 192.

A medical officer being required by the statute to reside in the asylum, although the residence provided for him in the asylum be detached from the main buildings, is exempt from being assessed in respect thereof to the inhabited house duty under 14 & 15 Vict. c. 36; *Jepson v. Gribble* (1876), 1 Ex. D. 151; 45 L. J. Ex. 502; 34 L. T. (N.S.) 493; 24 W. R. 460.

Clerk of Asylum.—The clerk to the asylum may also be clerk to the visiting committee, see section 176, *ante*, p. 313.

Exemption from Jury Service.—By section 9 and the Schedule to the Juries Act, 1870, 33 & 34 Vict. c. 77, “keepers in public lunatic asylums” are (amongst others) exempt from being returned to serve and from serving upon any juries or inquests whatsoever, and their names shall not be inserted in the lists of the persons qualified and liable to serve on the same. “Keepers” probably means “attendants,” and “public lunatic asylums” probably means “county or borough lunatic asylums.”

(2.) The visiting committee may appoint a minister of any religious persuasion to attend patients of the religious persuasion to which the minister belongs. [Dissenting ministers.]

The appointment of a minister under this sub-section is not obligatory, but if made does not in any way relieve the visiting committee from the obligation of appointing a chaplain of the Established Church under the preceding sub-section. Cf. *Reg. v. Haslehurst* (1884), 13 Q. B. D. 253; 53 L. J. M. C. 127; 51 L. T. (N.S.) 95; 48 J. P. 774.

(3.) The committee may remove any person appointed under this section, and if the office of chaplain, medical officer, [Removal of officers.]

Section 276. superintendent, clerk, or treasurer becomes vacant, the committee shall appoint a person to fill the vacancy subject to the restrictions affecting the original appointment, and they may in their discretion fill any vacancies among other officers and servants of the asylum.

Removal of Chaplain.—The power of removal under this sub-section extends to the chaplain, notwithstanding that his licence is granted and revocable by the bishop (see section 277, (1), *infra*, *Reg. v. Visiting Justices of Middlesex Asylum* (1842), 2 Q. B. 433; 2 G. & D. 300; 6 Jur. 682.

Removal of Minister.—It will be observed that the power of removal extends to the removal of a minister appointed under the preceding sub-section.

Notice of Dismissal for Misconduct.—If any person employed in connection with the care of the patients is dismissed for misconduct, the clerk of the asylum must, within 2 days, send a written notice to the Commissioners of the dismissal and its cause. See the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 25, *post*, p. 535.

[Visiting
medical
practitioner.]
[Salaries of
officers.]

(4.) The committee may also appoint a visiting physician or surgeon to the asylum.

(5.) The salaries, wages, and remuneration of every person appointed under this section shall be fixed by the committee.

277. (1.) The licence of the chaplain of an asylum shall be revocable by the bishop.

Application of Private Chapels Act, 1871.—The Private Chapels Act, 1871, 34 & 35 Vict. c. 66, is applicable to the chapels and chaplains of lunatic asylums.

It is provided by section 1 of that Act that the bishop of the diocese within which any chapel belonging to any college, school, hospital, asylum, or public or charitable institution is situated, whether consecrated or unconsecrated, may licence a clergyman of the Church of England to serve such chapel and administer therein the sacrament of the Lord's Supper, and perform such other offices and services of the Church of England as shall be specified in such licence, provided that the bishop shall not include in any such licence the solemnization of marriage, and may, if he think fit, revoke the same at any time.

Section 2 of the same Act further enacts that the minister officiating in such chapel shall, with respect to the performance of the offices and services of the church specified in such licence, be subject to no control or interference on the part of the incumbent of the parish or district in which such chapel is situate; but nothing herein contained shall prejudice or affect the right of such incumbent to the entire cure of souls throughout such parish or district elsewhere than within such institution and the chapel thereof.

Section 3, lastly, provides that the offertory and alms collected at any

chapel, subject to the provisions of this Act, shall be disposed of as the minister thereof shall determine, subject to the direction of the ordinary. **Section 277.**

NOTE.

(2.) The chaplain, or his substitute approved by the committee, shall perform in the chapel of the asylum, or in some other convenient place belonging to the asylum, Divine service according to the rites of the Church of England on every Sunday, Christmas Day, and Good Friday. He shall also perform Divine service, and such other services according to the rites of the Church of England as the committee direct, at such times as they appoint. The chaplain. [Divine service.]

By section 187, *ante*, the visiting Commissioners are to enquire, amongst other things, whether Divine service is performed in the asylum.

(3.) If a patient is of a religious persuasion differing from that of the Established Church, a minister of his persuasion, at the request of the patient or his friends, may, with the consent of the medical officer and under such regulations as he approves, visit the patient. [Occasional visits from dissenting ministers.]

278. (1.) The clerk of the asylum shall keep all books and documents which the visiting committee are required to keep or direct to be kept. Books and accounts.

(2.) He shall also keep an account of the receipts and expenditure on account of the asylum. [Clerk's accounts.]

(3.) Before the thirtieth day of September in each year, or such other date as the Local Government Board appoint, he shall send an abstract of the account for the previous year, ending on the thirty-first day of March, or such other date as the Local Government Board appoint, to the Local Government Board, and to the Commissioners. [Date for sending in abstract of accounts.]

Appointed Day.—By Order dated the 18th July, 1889, the Local Government Board appointed the 30th September in each year, as the date before which abstracts must be sent in to the Board and to the Commissioners in Lunacy. See sub-section (7) of this section.

(4.) The abstract shall contain such particulars and be in such form as the Local Government Board direct. [Form of abstract.]

(5.) Within one month from the receipt of the abstract a copy thereof shall be laid before both Houses of Parliament, if Parliament is then sitting, and if not, within one month from the commencement of the next session. [Copy to be laid before Parliament.]

(6.) The treasurer and every officer of an asylum who receives or expends money or goods on account of the asylum shall keep accounts of his receipts and expenditure. [Treasurer's and other accounts.]

Section 278. (7.) This section shall not affect any order made by the Local Government Board before the commencement of this Act.

[Saving for
Order of
Local Govern-
ment Board.]
Accounts of
county
asylums.

279. [*The accounts of every asylum belonging wholly or in part to a county council and of the visiting committee and officers thereof shall be subject to the provisions of the Local Government Act, 1888, relating to the accounts of county councils.*]

This section has been repealed by section 29 and the schedule of the Lunacy Act, 1891, *post*, and is now superseded by section 18 of that Act, *post*, p. 479.

Pensions to
officers.

280. (1.) (*The visiting committee may grant to any superintendent, chaplain, matron, or other officer or servant of the asylum, who is incapacitated by confirmed illness, age, or infirmity, or who has been an officer or servant in the asylum for not less than fifteen years and is not less than fifty years old, such superannuation allowance as the committee think fit.*)

This section, together with sections 281 and 282, *post*, have been repealed by the Asylums Officers' Superannuation Act, 1909 (Schedule), *post*, Appendix I.

There is no distinction between officers *of* and officers *in* the asylum under this sub-section, and a superannuation allowance could under the repealed section be granted to the chaplain, though not a resident officer, and not suffering from any other infirmity than nervous exhaustion, if he had served more than fifteen years and was over fifty years old: *Reg. v. Hereford County Council* (1890), 62 L. T. 638; 38 W. R. 775; 55 J. P. 72.

(2.) (*Where the offices of superintendent and matron are held by a man and wife, and a superannuation allowance has been granted to the superintendent, the committee may, if the matron has been an officer of the asylum for not less than twenty years, grant her such superannuation allowance as they think fit, although she is not incapacitated by illness, age, or infirmity: Provided that, if any such matron is appointed to a public office or to any office under this Act in respect of which she receives a salary, her superannuation allowance shall, so long as she receives such salary, be suspended or diminished by the amount of the salary according as the salary is or is not greater than the allowance.*)

Repealed; see note to sub-section 1, *supra*.

(3.) (*A superannuation allowance shall not exceed two-thirds of the salary paid to the superannuated person at the date of superannuation and such further sum (if any) as the visitors think fit to grant, having regard to the value of the lodgings, rations, and other allowances enjoyed by the superannuated person.*)

Repealed; see note to sub-section 1, *supra*.

281. (1.) (*A superannuation allowance shall not be granted unless seven clear days' notice of the meeting at which the same is to be granted, and of the intention to determine thereat the question of such grant, has been given, nor unless three visitors concur in and sign the order granting the same.*) **Section 281.** Mode in which pension to be granted.

(2.) (*A superannuation allowance granted under this Act shall be paid out of the county or borough fund as the case may be.*)

(3.) (*A superannuation allowance payable out of the county fund shall not be paid until the grant thereof has been confirmed by the county council.*)

The whole section has been repealed ; see note to section 280, *supra*.

282. (*When any officer is transferred from one asylum to another, wholly or in part belonging to the same local authority, his service in all such asylums shall be counted for the purpose of computing his pension, superannuation allowance, or gratuity for length of service, as if all such asylums had constituted only one asylum.*)

This section has been repealed ; see note to section 280, *ante*.

PART X. (a)

EXPENSES OF PAUPER LUNATICS (b).

Weekly Expenses.

Section 283. **283.** (1.) Every visiting committee shall fix a weekly sum, not exceeding fourteen shillings, for the expenses of maintenance and other expenses of each pauper lunatic in the asylum, and of such amount that the total of such weekly sums shall be sufficient to defray such expenses and also the salaries of the officers and attendants of the asylum, and such weekly sum may from time to time be altered.

Weekly sum
to be fixed.

Expenses of Maintenance.—As to what expenses are included in the expression “expenses of maintenance,” see section 287 (1), *post*, p. 395.

Rates charged upon asylum buildings are payable out of the maintenance account under this section: *Reg. v. Dolby* (No. 1), [1892] 2 Q. B. 301.

Repayments to Guardians.—As to sums payable by the county council to the guardians in respect of chargeable pauper lunatics maintained in any institution for lunatics, see section 24 (2) (f) of the Local Government Act, 1888, 51 & 52 Vict. c. 41, cited in the notes to section 286, *post*, p. 394.

[Increase over
fourteen
shillings per
week.]

(2.) If fourteen shillings a week is found insufficient for the purposes aforesaid, the local authority to whom the asylum belongs, may by order direct such addition to be made to the weekly sum as to the local authority seems necessary, and every such order shall be signed by the clerk of the local authority, and forthwith published in a local newspaper.

Retrospective Increase.—This sub-section does not authorise the local authority to direct a retrospective increase, 56 J. P. 461.

Total too Large.—If the amount fixed by the visiting committee is found to be more than sufficient for the purposes in question, it seems that the

(a) As to the application of this part of the Act to the Lancashire Asylums Board and to the visiting committees appointed thereby, see the Lancashire County (Lunatic Asylums, &c.) Act, 1891, s. 22, *post*, p. 504.

(b) By section 22 of the Lunacy Act, 1891, *post*, the provisions of this Act for the payment of expenses in relation to pauper lunatics shall be applicable with respect to lunatics in institutions for lunatics who become paupers.

unions contributing thereto have no claim for repayment of any part: **Section 283.**
Procter v. Cheshire County Council (1892), 56 J. P. 532.

(3.) A committee may fix a greater weekly sum, not exceeding fourteen shillings, to be charged in respect of pauper lunatics other than those sent from or settled in a parish or place within the county or borough to which the asylum belongs. [Extra charge for out-county lunatics.]

Under this sub-section the committee is not entitled to fix a greater weekly sum than 14s. even for paupers received other than from the parish or place within the county or borough to which the asylum belongs: *Fitch v. Bermondsey Guardians*, C. A. [1905] W. N. 15; [1905] 1 K. B. 524.

Partial Exoneration of Unions in Certain Cases.—As to the payment of part, not exceeding one-fourth, of the weekly charge agreed upon for each pauper lunatic by the local authority for whom their visiting committee has made a reception contract, in exoneration to that extent of the union to which the maintenance of any such pauper lunatic is chargeable, see section 269 (9), *ante*, p. 378.

Again, by section 23 of the Poor Law Amendment Act, 1867, 30 & 31 Vict. c. 106, when any pauper lunatic shall be sent to an asylum from any part of a borough wholly or partly comprised within a union, which borough shall not have contributed to the erection or maintenance of that asylum, the visitors of the asylum shall, where the union and the borough are not conterminous, make out two accounts in respect of such lunatic in the asylum, one of which shall be limited to the charge which would be made in the case of a pauper lunatic sent from the county, and shall be transmitted to the guardians of the said union for payment, and the other, which shall contain the extra sum by law chargeable in respect of a pauper lunatic received into the same asylum from any other county, shall be transmitted to the town council of such borough, and shall be paid by them as other charges to which the borough fund may be liable. Section 14 of the Poor Law Amendment Act, 1868, 31 & 32 Vict. c. 122, extends the foregoing provisions to the case of pauper lunatics sent to an asylum before the passing of that Act as well as since. As to the origin of these enactments, see 17th Rep., p. 7; 20th Rep., p. 9; 22nd Rep., p. 89. They do not now extend, of course, to any boroughs not liable under section 38 of the Local Government Act, 1888, 51 & 52 Vict. c. 41, to maintain their own lunatics.

Somewhat similar provisions are made by section 26 of the Divided Parishes and Poor Law Amendment Act, 1876, 39 & 40 Vict. c. 61, with regard to pauper lunatics sent to any licensed house or registered hospital.

(4.) Any excess created by the payment of such greater weekly sum may, if the visiting committee think fit, be paid over to a building and repair fund, to be applied by the committee to the altering, repairing, or improving the asylum, and the committee shall annually submit to the local authority a detailed statement of the manner in which such fund has been expended. [Application of surplus.]

Section 283. As to the powers of the visiting committee in relation to repairs, alterations, and improvements, see section 266, *ante*, p. 374. As to carrying surplus profits from private patients to the building and repair fund, see section 271 (2), *ante*, p. 380.

NOTE.

If the committee do not utilise the excess in the way directed by this sub-section, it would seem that the amount may be claimed by the local authority: *Procter v. Cheshire County Council* (1892), 56 J. P. 532. See 58 J. P. 77.

Lancashire.—As to the application of this excess in regard to Lancashire asylums, see Lancashire County (Lunatic Asylums, &c.) Act, 1891, s. 23, *post*, p. 505.

Uniform charge where more than one asylum.

284. Where there is more than one asylum under the management and control of a visiting committee, the committee may, subject to any direction given by the local authority, provide that a uniform charge shall be made for the maintenance of lunatics in the several asylums, and that for that purpose any surplus arising on the accounts of one asylum shall be applied to meet the deficit arising on the accounts of another asylum.

As to when more than one asylum may be under the management and control of a visiting committee, see section 169 (3), *ante*, p. 308.

Medical fees and other Expenses.

Payment of medical fees and other expenses.

285. (1.) Whenever a justice directs a lunatic or alleged lunatic, whether a pauper or not, to be examined by a medical practitioner under the provisions of this Act, the justice directing the examination, or any other justice having jurisdiction in the place where the examination took place, may make an order upon the guardians of the union named in the order for payment of such reasonable remuneration to the medical practitioner and of all such other reasonable expenses in and about the examination and the inquiry, whether an order for the reception of the alleged lunatic in an institution for lunatics or workhouse ought to be made, and also if an order is made for payment of such reasonable expenses of carrying the order into effect as the justice thinks proper.

Order when Made.—The order may be made whether the lunatic or alleged lunatic is a pauper or not, and whether a reception order is made or not, and should apparently be made upon the guardians of the union in which the examination takes place. It has been held that remuneration may be allowed for professional services but not for the loss of time of a medical man: *Rex v. Delvin Union*, 2 I. R. 15.

Order, by what Justice.—Where a union extends into several distinct jurisdictions then, by section 27 of the Poor Law Amendment Act, 1867, 30 & 31 Vict. c. 106, every matter, act, charge, or complaint by which the

guardians thereof are affected, or in which they have any interest, shall, **Section 285.**
for the purpose of jurisdiction, be deemed to arise or exist equally through-
out the union. If a chairman of a board of guardians is empowered under
section 25 of the Lunacy Act, 1891, *post*, to sign reception orders for pauper
lunatics, it would seem that he may also make orders for payment of ex-
penses in the like cases under this section : see 56 J. P. 15.

NOTE.

Fees of Poor Law Medical Officers.—An order may be made under this
sub-section for the remuneration of any district or workhouse medical
officer of the union on the guardians of which the order is made, if such
district or workhouse medical officer was the medical practitioner who
made the examination under the direction of a justice.

Proper Officer to make Payment.—The treasurer of the guardians is the
proper officer to make the payment according to the order.

Appeal or Certiorari.—No appeal is given by this Act against an order
under this section, but it is an open question whether the order is not
removable by *certiorari* for the purpose of quashing it. See *Reg. v. Hatfield*
Peveler (1849), 14 Q. B. 298 ; *Reg. v. Pemberton* (1879), 5 Q. B. D. 96 ; 49
L. J. M. C. 29 ; 41 L. T. 664 ; 28 W. R. 662 ; 44 J. P. 184.

Payment without Order.—The guardians may pay without an order : see
section 295, *post*, p. 409.

Fund Chargeable.—The sums paid, whether under an order or with-
out an order, will, in the case of a union, be chargeable to the common
fund.

(2.) The guardians upon whom an order is made under this [Reimburse-
section may recover any sums paid thereunder against the ment of
lunatic or alleged lunatic and his estate, and the person or guardians.]
authority legally liable for his maintenance as in the case of
orders for maintenance under this Act.

Where the guardians pay without an order, the expenses are recoverable
from the alleged lunatic himself by action, as for necessities at common law :
West Ham v. Pearson (1890), 62 L. T. 638 ; 54 J. P. 645.

Liability for Expenses of Maintenance.

286. (1.) Where a pauper lunatic is sent to an institution for ^{Chargeability}
lunatics, or where a lunatic in an institution for lunatics becomes ^{of pauper}
a pauper, he shall be deemed to be chargeable to the union ^{lunatic.}
from which he was sent, until it has been established, as by this
Act provided, that the lunatic is settled in some other union,
or that it cannot be ascertained in what union the lunatic was
settled, and the manager of the institution shall forthwith give
to the authority liable for his maintenance notice that the
lunatic has become destitute.

See as to the lunatics with respect to whom the provisions of this Act for
the payment of expenses in relation to pauper lunatics are applicable,

Section 286. section 298, *post*, p. 410, and sections 19 (2) and 22 of the Lunacy Act, 1891, *post*, pp. 483, 485.

NOTE.

Lunatics becoming Paupers.—The consolidated enactments contained no provision for the maintenance of lunatics received as private patients who afterwards became paupers: *Ipswich v. Macclesfield* (1890), 63 L. T. 526; 39 W. R. 221; 55 J. P. 134. Hence the insertion in this Act of the words, “where a lunatic in an institution for lunatics becomes a pauper,” and the enactments of sections 19 (1) and 22 of the Lunacy Act, 1891, *post*, pp. 483, 485.

Repayments by County and County Borough Councils.—By section 24 (2) (*f*) of the Local Government Act, 1888, 51 & 52 Vict. c. 41, it is provided that, in substitution for the local grants formerly made out of the Exchequer, the council of each county shall, from time to time, pay out of the county fund to the guardians of every poor law union wholly or partly in the county a sum equal to four shillings a week for each pauper lunatic chargeable to that union and maintained in an asylum, registered hospital, or licensed house, for whom the net charge upon the guardians, after deducting any amount received by them for the maintenance of such lunatic from any sources other than local rates, is equal to or exceeds four shillings a week throughout the period of maintenance for which the sum is so paid. By sub-section (5) of the same section, where a sum is payable under this section to the guardians, authority, or officer of a union or other area, and such union or area is situate in more administrative counties than one, a proportionate part only of the sum otherwise payable shall be paid by the council of each of such counties to the guardians, authority, or officer, and the Local Government Board shall certify the proportionate part due from the council of each county. And by section 34 of the same Act the council of a county borough is bound to make the like payments out of the borough fund.

By section 100 of the same Act the expression “guardians” means guardians elected under the Poor Law Amendment Act, 1834, and the Acts amending the same, and includes guardians or any body of persons performing, under any local Act, the like functions to guardians under the Poor Law Amendment Act, 1834. And the expression “poor law union” means any parish or union of parishes for which there is a separate board of guardians.

By section 57 (3), *ante*, lunatics boarded out under that section are, for the purposes of these repayments, deemed to be lunatics maintained in an asylum. As to whether these repayments should be made in the case of chronic lunatics received into workhouses under section 26, *ante*, see 58 J. P. 715. The reference to amounts received by the guardians from sources other than local rates includes moneys received by the guardians under sections 299, 300, *post*.

The arrangement contemplated by the above enactments is not intended in any way to relieve the guardians from the duty of enforcing payment of the cost of the maintenance of any such lunatic by his relations when they are in a position to repay or contribute to it, and if proper measures are not taken to recover such contributions the grant may be withheld. If any such contribution is recovered or recoverable, no repayment will be made,

unless the net charge on the rates equals or exceeds four shillings a week. **Section 286.**
 Also no claim is to be made in respect of fractional parts of a week. The repayments are generally made annually by the county councils, who usually require returns to be made, stating, amongst other particulars, the amount claimed in respect of each lunatic, and countersigned by the district auditors.

NOTE.

(2.) Every pauper lunatic who is chargeable to a union shall, while he resides in an institution for lunatics, be deemed for the purposes of his settlement to be resident in the union to which he is chargeable. [Residence for purposes of settlement.]

Object of Enactment.—That clause was rendered necessary in consequence of the provisions of section 4 of the Poor Law Amendment Act, 1849, 12 & 13 Vict. c. 103, whereby it was enacted that the removal of any lunatic pauper to an asylum, licensed house, or registered hospital, under the authority of the statutes in that behalf, or of any pauper otherwise than under an order of removal, from his place of abode in any parish of a union to the workhouse of such union, shall not be deemed to be an interruption of the residence of such pauper within the meaning of the Poor Removal Act, 1846, 9 & 10 Vict. c. 66, but the time spent in such lunatic asylum, licensed house, or registered hospital, or workhouse respectively, and the time during which any person shall be relieved at the charge of the common fund of the union, shall be wholly excluded from the computation of the time of residence which, according to the provisions of such statute, will exempt a poor person from being removed.

287. (1.) The justice by whom any pauper lunatic is sent to any institution for lunatics under this Act, or any two justices of the county or borough in which the institution for lunatics where any pauper lunatic is confined is situate, or from any part of which any pauper lunatic has been sent, or any two justices, being visitors of such institution, may make an order upon the guardians of the union to which the lunatic is chargeable, for payment to the treasurer, or manager of the institution, of the reasonable charges of the lodging, maintenance, medicine, clothing, and care (in this Act referred to as the expenses of maintenance) of such lunatic. Orders for maintenance of lunatics.

By what Justices Order may be made.—It will be observed that under this section orders for maintenance may be made—

- (1.) By the justice by whom the lunatic is sent to any institution for lunatics under this Act; or
- (2.) By any two justices of the county or borough in which the institution for lunatics where the lunatic is confined is situate; or
- (3.) By any two justices of the county or borough from any part of which the lunatic has been sent; or
- (4.) By any two justices being visitors of the institution where the lunatic is confined.

Section 287. An order may be made under this section, although the union upon the guardians of which it is made is not within the jurisdiction of the justice or justices making the order : see section 292 (1), *post*, p. 404.

NOTE.

If the asylum is situate outside the limits of the administrative area of the local authority to which it belongs, the justices of the county or borough to which it belongs have full power and authority to act in the county or borough in which it is situate : see section 262, *ante*, p. 373.

For what Lunatics.—As to the lunatics for whose maintenance an order may be made under this section, see section 298, *post*, p. 410, and section 22 of the Lunacy Act, 1891, *post*, p. 485.

Order may be made ex parte.—It is the settled practice to make orders *ex parte* under the provisions of this section, and no objection can be taken to them on that ground only : *Reg. v. Bruce*, [1892] 2 Q. B. 136 ; 40 W. R. 686 ; 56 J. P. 567 ; *Ex parte Monkleigh* (1848), 17 L. J. M. C. 76. Justices may fix the amount of payment they are not restricted to the limit of 14s. a week (see section 283) : *Glamorgan v. Cardiff, C. A.*, [1911] 1 K. B. 437. Overruling in part dictum in *Suffolk Co. Lunatic Asylum v. Stow Union* (1897), 76 L. T. 494. But where the sum ordered exceeds the sum fixed by the Visiting Committee under section 283, the order ought *not* to be made *ex parte*, nor absolute, but only until further order. The Summary Jurisdiction Acts have no application to such orders : see section 35 of the Summary Jurisdiction Act, 1848, 11 & 12 Vict. c. 43, and section 54 of the Summary Jurisdiction Act, 1879, 42 & 43 Vict. c. 49.

Payment by Guardians.—The guardians upon whom an order might be made may pay without any order made, and charge the amount to the same account as if an order had been made : see section 295, *post*, p. 409.

Money paid by the guardians of a union should be charged to the common fund.

Where under this section, an order for payment of past maintenance of a pauper sent from a union to an asylum was made by justices upon the guardians of another union, who had admitted the chargeability, without an adjudication as to settlement under section 289, it was held that the order was properly made on the last-mentioned union : *Rex v. Staffordshire Justices, ex parte Ormskirk Union, C. A.*, [1912] 1 K. B. 616 ; 81 L. J. (K.B.) 894 ; [1912] W. N. 60 ; 76 J. P. 177 ; 106 L. T. 579 ; 10 L. G. R. 274 ; 56 S. J. 324.

[Retrospective and prospective orders.]

(2.) Any such order may be retrospective or prospective, or partly retrospective and partly prospective.

Retrospective Orders.—The express words of this sub-section exclude the application of the principle in *Rex v. Maulden* (1828), 8 B. & C. 78 ; *Rex v. St. Nicholas, Leicester* (1835), 3 A. & E. 79 ; *Rex v. Darton* (1840), 12 A. & E. 78 ; *Bradford Union v. Wiltshire* (1868), L. R. 3 Q. B. 604 ; 37 L. J. M. C. 129 ; 18 L. T. (N.S.) 514 ; 16 W. R. 1197.

A retrospective order may be made for the payment of expenses of maintenance incurred more than twelve months previously to the date of the order : *Finch v. York Union Guardians* (1876), 2 Q. B. D. 15 ; 46 L. J. M. C. 120 ; 35 L. T. (N.S.) 708 ; 25 W. R. 42.

Prospective Orders.—A prospective order extends to payment to the treasurer or manager of any institution to which the lunatic may be removed : see section 293, *post*, p. 404.

Section 287.
NOTE.

(3.) An order under this section shall not be subject to [No appeal.] appeal.

This sub-section embodies the decision in *Reg. v. Northampton* (1865), 6 B. & S. 653 ; 13 L. T. (N.S.) 199 ; S. C. *sub nom. Kettering Union Guardians v. Northampton Lunatic Asylum*, 34 L. J. M. C. 198 ; 11 Jur. (N.S.) 999.

The reason why no appeal is allowed is because the union may immediately get rid of its liability in one of two alternative ways ; either under sections 288, 289, by showing that the lunatic has a legal settlement which, under those sections, two justices have power to inquire into and adjudge, and in adjudging which they would make an order for payment of all expenses incurred and for the maintenance of the lunatic upon the guardians of the union of settlement ; or, if it cannot be ascertained in what parish he is settled then, under section 290, the guardians could apply for and obtain an order of two justices upon the treasurer of the local authority, within the area of which the lunatic was found for those expenses and his maintenance : see per COCKBURN, C.J., in *Reg. v. Northampton*, above cited ; 6 B. & S. on pp. 660, 661, and per WRIGHT, J., in *Reg. v. Bruce*, [1892] 2 Q. B. 136.

But although no appeal lies, yet where an action is brought upon such an order, the defendants are entitled to plead thereto, and if such plea affords no answer to the statement of claim, the proper mode of taking objection is by the reply, and not by summons to strike out the defence : *Finch v. York Union Guardians* (1876), 35 L. T. 360, and see Rules of the Supreme Court, 1883, Order xxxv.

288. Any two justices for the county or borough in which an institution for lunatics where a pauper lunatic is or has been confined is situate, or to which such institution being an asylum wholly or in part belongs, or from any part of which any pauper lunatic is or has been sent for confinement, may, at any time, inquire into the settlement of the pauper lunatic.

Inquiry, by what Justices.—An inquiry under this section may be made by—

- (1.) Any two justices for the county or borough in which the institution for lunatics where lunatic is or has been confined is situate ; or
- (2.) Any two justices for the county or borough to which the institution being an asylum, in which the lunatic is or has been confined, belongs ; or
- (3.) Any two justices for the county or borough from any part of which the lunatic is or has been sent for confinement.

Where an asylum is situate outside the limits of the administrative area of the local authority to which it belongs, the justices of the county,

Section 288. county borough, or borough to which it wholly or in part belongs have full power and authority to act in the county or borough in which the asylum is situate: see section 262, *ante*, p. 373.

NOTE.

Time of Inquiry.—The inquiry may now be held *at any time*, either before or after the discharge of the lunatic from the institution to which he has been sent, or after the death of the lunatic. See *Reg. v. Manchester Guardians* (1856), 6 E. & B. 919; 26 L. J. M. C. 1; 28 L. T. 369; 2 Jur. (N.S.) 1205; 20 J. P. 726; *Hunslet v. Dewsbury* (1856), 26 L. J. M. C. 3; 28 L. T. 99; 2 Jur. (N.S.) 1207, although under 8 & 9 Vict. c. 126, s. 58, it could not have been held after the pauper lunatic had been discharged from the asylum: *Reg. v. Wolverhampton* (1849), 14 Q. B. 318; 19 L. J. M. C. 25.

A second inquiry may be held, and a fresh order of adjudication made, where there has been a change of settlement, although an inquiry was held, and an order made thereon, at a previous time: *West Derby Union v. Liverpool Select Vestry* (1882), 46 J. P. 372 *n*.

Examination of Lunatic.—As to the right of the guardians and others to have access to the lunatic for the purpose of examining him as to his settlement, see section 312, *post*, p. 424.

Adjudication
as to settle-
ment.

289. If satisfactory evidence can be obtained as to such settlement in any union, such justices shall, by order, adjudge the settlement, and order the guardians of the union to pay to the guardians of any other union the expenses incurred in or about the examination of the lunatic and the bringing him before a justice or justices, and his removal and conveyance to or from any institution for lunatics (in this Act referred to as the incidental expenses), and all moneys paid by such last-mentioned guardians to the treasurer or manager of the institution for the expenses of maintenance of the lunatic, and incurred within twelve months previous to the date of such order, and, if the lunatic is still in confinement also to pay to the treasurer or manager of the institution the reasonable expenses of the future maintenance of such lunatic.

Order ex parte.—The order may be made *ex parte*: *Reg. v. Bruce*, [1892] 2 Q. B. D. 136; 40 W. R. 686; 56 J. P. 567; *Ex parte Monkleigh* (1848), 17 L. J. M. C. 76; but see also *Glamorgan v. Cardiff*, C. A., [1911] 1 K. B. 437, cited under section 287, *ante*, p. 396, as to when orders should not be made *ex parte*.

Evidence.—As to the right of the guardians and others interested to have access to the lunatic to examine him as to his settlement, see section 312, *post*, p. 424. As to hearsay evidence, see section 304 (4), *post*, p. 420.

Time of Order.—An order may be made under this section in respect of past maintenance and incidental expenses, although the lunatic is dead, or may have been discharged from the institution. See notes to preceding section.

Jurisdiction.—It may be made on the guardians of a union not within Section 289. the jurisdiction of the justices : see section 292 (1), *post*, p. 404.

If the lunatic be, in fact, in the institution, the jurisdiction of the justices to make an order under this section is not taken away by reason of any irregularity in the previous proceedings leading to his confinement : *Reg. v. Rhyddlan* (1850), 14 Q. B. 327 ; 19 L. J. M. C. 110 ; *Reg. v. Minster* (1850), 14 Q. B. 349 ; *Reg. v. Crediton* (1858), 1 E. B. & E. 231 ; 31 L. T. 114 ; 27 L. J. M. C. 265 ; 4 Jur. (N.S.) 926 ; 22 J. P. 722 ; *Reg. v. Faversham* (1863), 2 B. & S. 275 ; 31 L. J. M. C. 116 ; 6 L. T. (N.S.) 415 ; 26 J. P. 310.

As to the validity of orders made by justices sitting at the workhouse, see *Bath Union v. Paddington* (1898), 62 J. P. 521.

Form of Order.—The adjudication of the settlement, and the order for payment of the expenses, should be contained in one instrument : see *Reg. v. Tyrrwhitt* (1848), 17 L. J. M. C. 141. The expenses of maintenance (as to which, see section 287 (1), *ante*) ordered to be repaid must not have been incurred more than one year previously to the date of the order, but this limitation does not apply to the incidental expenses : *Reg. v. Winster* (1850), 14 Q. B. 344. “The expenses of the examination of the lunatic,” included in the incidental expenses, means the expenses of the examination of the lunatic as to his mental condition, and does not include the expenses of examining him with reference to his settlement, under section 312, *post*.

Where a board of guardians obtain an order of adjudication under this section they should claim from the guardians of the union to which the lunatic is adjudicated the whole of the moneys paid in respect of the lunatic during the twelve months previous to the making of the order, and not deduct from such claim the amount which has been repaid to the guardians by the county or county borough council out of the exchequer contribution account. If the guardians make such a claim, and the justices make an order for the whole amount, the guardians should credit the county council in the next claim for payment out of the exchequer contribution account with the amount which they had received from the county council in respect of the lunatic transferred. If, however, the justices refuse to make an order for more than the balance of the expenses incurred in respect of the maintenance of the lunatic, after deducting from such expenses the sums repaid to the guardians out of the exchequer contribution account, the Local Government Board do not think the guardians should bear the loss. The Board are, therefore, of the opinion that the guardians should not, in such case, in their next claim credit the county council with the amount received out of the exchequer contribution account in respect of the lunatic as if such amount had been recovered from the guardians of the union to which the lunatic is transferred : Letter of the Local Government Board to Town Clerk of Liverpool, 28th November, 1891. See 58 J. P. 10.

As regards the expenses of the future maintenance of the lunatic in an asylum, the order should state that the weekly sums ordered to be paid to the treasurer or manager are the weekly charges fixed by the visiting committee under section 283, *ante* : *Reg. v. Cornwall*, 14 L. J. M. C. 46. And where the lunatic is confined in a licensed house, it is usual to state that the weekly sum ordered to be paid is the sum charged by the proprietor in

NOTE.

Section 289. that behalf, and that it appears to the justices to be a reasonable charge ; and there may be added “ or such other weekly sum as the proprietor shall hereafter, and from time to time, reasonably charge for the maintenance, &c.” *Reg. v. Hatfield Peverel* (1849), 14 Q. B. 298 ; 18 L. J. M. C. 225. An order of adjudication is binding so far as concerns actions brought to enforce it, and evidence that the order was in fact wrongly made is inadmissible : *Suffolk County Lunatic Asylum v. Nottingham Union* (1905), 69 J. P. 120 ; 3 L. G. R. 362. As to the right of appeal against orders of adjudication, see *Reg. v. London Justices, ex parte Edmonton Union* (1896), 60 J. P. 456. An order for payment of the expenses of future maintenance extends to payment to the treasurer or manager of any institution to which the lunatic may be removed : see section 293, *post*, p. 404.

NOTE.

Appeal.—An appeal lies against the order under section 303, *post*, p. 418. As to amending the order on appeal, see section 308, *post*, p. 422.

Recovery of Money ordered to be Paid.—As to the recovery of the money ordered to be paid in case of neglect or refusal to pay, see section 314, *post*, p. 425.

If settlement cannot be ascertained a pauper lunatic may be made chargeable to a borough or county.

290. (1.) If a pauper lunatic is not settled in the union from which he was sent to an institution for lunatics, and his settlement cannot be ascertained, and the lunatic was sent from a quarter sessions borough which is free from contributing to the payment of the expenses of pauper lunatics chargeable to the county in which the borough is situate, or from a place not in such a borough, then the relieving officer of the union shall give to the clerk of the local authority within whose area the lunatic is found, ten days' notice to appear before two justices having jurisdiction within such area, at a time and place to be appointed in the notice.

Lunatic whose Settlement cannot be Ascertained.—A person born in Scotland or Ireland, or the Channel Islands, or any foreign country, and not having gained any settlement in England, is a person whose settlement cannot be ascertained within the meaning of this sub-section : *Clerk of the Peace for Somersetshire v. Shipham Overseers* (1863), 3 B. & S. 507 ; 32 L. J. M. C. 83 ; 7 L. T. (N.S.) 673 ; 9 Jur. (N.S.) 869 ; 27 J. P. 437. But the legitimate child of such a person, if born in England, though unemancipated, has a settlement in the parish in which it was born : *Reg. v. Newchurch* (1862), 3 B. & S. 107 ; 32 L. J. M. C. 19 ; 7 L. T. (N.S.) 271 ; 9 Jur. (N.S.) 536 ; S. C. *sub nom. New Church v. Tottington Lower End*, 27 J. P. 245. It has always been considered that the statutes relating to the removal of Scotch, Irish, and Channel Islands poor to their own place of birth have no application to pauper lunatics. See Hansard Parl. Deb., 3rd series, vol. 331, p. 510 ; 56 J. P. 723, 739, 765 ; 57 J. P. 382.

Quarter Sessions Boroughs.—Before the passing of the Parliamentary Boundaries Act, 1832, 2 & 3 Will. 4, c. 64, certain quarter sessions boroughs (*i.e.*, those having a grant of quarter sessions with a *non-intromittant* clause) were not liable to contribute to the county rates of the counties within which they were situate, and consequently not liable to contribute to the

expenses of pauper lunatics chargeable to the county under 9 Geo. 4, c. 40, Section 290.

s. 41. Then, by section 117 of the Municipal Corporations Act, 1835, 5 & 6 Will. 4, c. 76, this exemption was preserved to such of those boroughs as applied for and received a grant of a separate court of quarter sessions under that Act; although other boroughs receiving such grants had to contribute to such expenses out of the borough fund. By the substitution of the 8 & 9 Vict. c. 126 for the 9 Geo. 4, c. 40, many quarter sessions boroughs, though not exempt under section 117 of the Municipal Corporations Act, 1835, from contributing to the expenses of pauper lunatics chargeable to the county under 8 & 9 Vict. c. 126, s. 59, were made liable to provide separate pauper lunatic asylums for themselves. Consequently, by the 12 & 13 Vict. c. 82, s. 2, all boroughs which had received a grant of a separate court of quarter sessions under the Municipal Corporations Act, 1835, and had fulfilled the obligation of providing separate asylums for themselves, imposed upon them by 8 & 9 Vict. c. 126, were wholly freed from contributing, after the opening of such asylums, to the expenses of pauper lunatics chargeable to the county. And these same boroughs were, by section 3 of the same Act, 12 & 13 Vict. c. 82, rendered exclusively liable for the expenses of pauper lunatics confined in the borough asylum or found wandering in the borough, if the settlement of such lunatics could not be ascertained. These enactments remained unrepealed, when the 8 & 9 Vict. c. 126 was repealed and superseded by the Lunatic Asylums Act, 1853, 16 & 17 Vict. c. 97. But doubts having arisen as to the application of 12 & 13 Vict. c. 82, s. 3, after that change, that section was repealed by section 14 of the Lunacy Act, 1855, whereby only quarter sessions boroughs not liable under section 117 of the Municipal Corporations Act, 1835, to the payment of a proportion of the sums expended out of the county rate, were rendered exclusively liable for the maintenance of lunatics whose settlements could not be ascertained if such lunatics were found in such boroughs. One unforeseen result of this was that quarter sessions boroughs which were liable under section 117 of the Municipal Corporations Act, 1835, to contribute to county expenditure, and had provided separate asylums for themselves, and were consequently exempt under 12 & 13 Vict. c. 82, s. 2, from contributing to the expense of pauper lunatics chargeable to the county, were held not to be liable for the expenses of pauper lunatics confined in their own asylums whose settlements could not be ascertained: *Reg. v. Bacchus* (1860), 2 E. & E. 181; 29 L. J. M. C. 56; 6 Jur. (N.S.) 218, affirming *Birmingham v. Beaumont*, 8 E. & B. 870; 27 L. J. M. C. 181; 4 Jur. (N.S.) 868. Consequently section 14 of the Lunacy Act, 1855, was repealed and superseded by section 45 of the Lunacy Act, 1862, 25 & 26 Vict. c. 111, whereby it was enacted that not only quarter sessions boroughs not liable under section 117 of the Municipal Corporations Act, 1835, to contribute to county expenditure, but also quarter sessions boroughs exempt under 12 & 13 Vict. c. 82, s. 2, from contributing to the expenses of pauper lunatics chargeable to the county, should be liable for the expenses of lunatics whose settlement could not be ascertained if such lunatics were found in such boroughs. Then when the Municipal Corporations Act, 1835, was repealed by the Municipal Corporations Act, 1882, 45 & 46 Vict. c. 50, the provisions of section 117

NOTE.

Section 290. of the old Act were re-enacted by section 153 of the new Act, and by sections 5 and 242, references to the new Act were substituted for the references to the old Act in the 12 & 13 Vict. c. 82, s. 2, and 25 & 26 Vict. c. 111, s. 45. Then, by section 32 (3) (d) of the Local Government Act, 1888, 51 & 52 Vict. c. 41, the county boroughs created by that Act were rendered liable for the maintenance of pauper lunatics in like manner as any other county. And by section 35 (2), the exemption of the larger quarter sessions boroughs from contributing to the expenses of pauper lunatics chargeable to the county was preserved, whilst by section 38 the exemption of the smaller quarter sessions boroughs was taken away, and their liability to maintain their own lunatics transferred to the county. And finally, by section 37, it was enacted that the subsequent grant of a separate court of quarter sessions to any borough not a county borough, should not exempt any such borough from liability to county contributions to which it was previously liable.

NOTE.

[Inquiry and adjudication on appearance or notice.]

(2.) Upon the appearance of the clerk of the local authority, in person or by deputy, or in case of non-appearance upon proof of due service of the notice, any two or more such justices may inquire into the circumstances of the case, and adjudge the pauper lunatic to be chargeable to the local authority, and may order the treasurer of the local authority to pay to the guardians of any union the incidental expenses of the lunatic, and all moneys paid by such guardians to the treasurer or manager of the institution for lunatics for the expenses of maintenance of the lunatic, and incurred within twelve months previous to the date of the order, and if the lunatic is still in confinement, to pay to such treasurer or manager the expenses of the future maintenance of the lunatic.

Incidental Expenses.—As to the meaning of the expression “the incidental expenses,” see section 289, *ante*, p. 398.

The incidental expenses which may be ordered to be paid under this sub-section are not subject to the limitation that they must have been incurred within twelve months previous to the date of the order: *Reg. v. Winster* (1850), 14 Q. B. 344. See also the judgment in *Re Clabbon*, [1904] 2 Ch. 465.

Expenses of Maintenance.—As to the meaning of the expression “the expenses of maintenance,” see section 287 (1), *ante*. As to the expenses of future maintenance, see *Reg. v. Cornwall* and *Reg. v. Hatfield Peverel*, cited in the notes to section 289, *ante*, pp. 399, 400, and see also section 293, *post*, p. 404.

Time of Order.—An order may be made under this section in respect of past maintenance and incidental expenses, although the lunatic is dead, or may have been discharged from the institution.

Jurisdiction.—As to the effect of previous irregularities in the proceedings, see *Reg. v. Rhyddlan*, *Reg. v. Minster*, *Reg. v. Crediton*, and *Reg. v. Faversham*, cited in the notes to section 289, *ante*, p. 399.

No Appeal.—No appeal lies against an order made under this sub-section

adjudging that a lunatic is chargeable to the local authority, and ordering payment by the treasurer of the local authority of the expenses therein mentioned: *Wilson v. Liverpool Overseers* (1851), 17 Q. B. 303; 20 L. J. M. C. 232. See also note to sub-section (4) of this section, *infra*.

NOTE.

Repayments to Boroughs.—By section 24 (2) (g) of the Local Government Act, 1888, 51 & 52 Vict. c. 41, it is provided that, in substitution for the local grants formerly made out of the Exchequer, the council of each county shall from time to time pay out of the county fund to the council of each borough to which the maintenance of any pauper lunatic is chargeable, a sum equal to four shillings a week for each such pauper lunatic for whom the net charge upon the council of the borough, after deducting any amount received by them for the maintenance of such lunatic from any source other than local rates, is equal to or exceeds four shillings a week throughout the period of maintenance for which the sum is so paid.

These repayments are generally made annually upon such evidence as the county council may require respecting the sums paid for maintenance by the borough. The reference to amounts received from sources other than local rates includes moneys received by the borough under section 299, *post*, p. 411.

(3.) Such justices may direct such further inquiries as they think fit to ascertain the union in which any pauper lunatic is settled, and delay their adjudication until after such further inquiries. [Further inquiries before adjudication.]

(4.) Every local authority to whom a pauper lunatic is adjudged to be chargeable may at any time thereafter inquire as to the union in which the lunatic is settled, and may procure him to be adjudged to be settled in any union. [Subsequent adjudication to union at instance of local authority.]

This sub-section enables the local authority, submitting to an order under sub-section (2), subsequently to obtain an order adjudging the pauper to be settled in the union obtaining the former order, and requiring that union to pay for future maintenance: *All Saints, Poplar v. Clerk of the Peace for Middlesex* (1860), 2 E. & E. 829; 24 J. P. 661; S. C. *sub nom. Clerk of the Peace for Middlesex v. All Saints, Poplar*, 29 L. J. M. C. 186; 2 L. T. (N.S.) 215; 6 Jur. (N.S.) 823.

291. If after a pauper lunatic has been sent to an institution for lunatics, and has been adjudged chargeable to a local authority, the local authority procure the lunatic to be adjudged to be settled in a union, any two justices of the county or borough in which the institution where the lunatic is confined is situate, or from any part of which the lunatic was sent for confinement, or any two justices, being visitors of the institution, may make an order upon the guardians of the union for payment to the treasurer of the local authority of all expenses of maintenance of the lunatic paid by such treasurer to the Provision for reimbursement of expenses of a lunatic afterwards adjudged to be settled in a union.

Section 291. treasurer or manager of the institution, and incurred within twelve months previous to the order, and, if the lunatic is still in confinement, also for payment to such treasurer or manager of the expenses of the future maintenance of the lunatic.

Order by what Justices.—An order under this section may be made by—

- (1.) Any two justices of the county or borough in which the institution where the lunatic is confined is situate ; or
- (2.) Any two justices of the county or borough from any part of which the lunatic was sent for confinement ; or
- (3.) Any two justices, being visitors of the institution where the lunatic is confined.

An order may be made under this section on the guardians of a union not within the jurisdiction of the justices making the order : see section 292 (1), *infra*.

Expenses of Maintenance.—As to the meaning “expenses of maintenance,” see section 287 (1), *ante*, p. 395. It will be observed that the expenses of past maintenance which may be ordered to be repaid under this section are limited to such expenses as have been incurred within twelve months previous to the order. An order may be made under this section in respect of past maintenance, although the lunatic is dead or may have been discharged from the institution. As to the expenses of future maintenance, see *Reg. v. Cornwall*, and *Reg. v. Hatfield Peverel*, cited in the notes to section 289, *ante*, pp. 399, 400, and see also section 293, *infra*.

Incidental Expenses.—It will be observed that this section does not expressly extend to the “incidental expenses,” although section 99 of Lunatic Asylums Act, 1853, extended to “all expenses paid by such treasurer as hereinbefore provided” : see section 98 of that Act. Section 64 of the 8 & 9 Vict. c. 126, extended thereto, if incurred within twelve months previous to the order. See also section 342 of this Act, *post*, p. 455.

Orders as to lunatic paupers.

292. (1.) Justices by this Act authorised to make orders for payment of expenses upon guardians of unions, may make such orders, although the union is not within the jurisdiction of the justices.

(2.) Orders as to the settlement or chargeability of pauper lunatics and for payment of expenses may be obtained by the guardians of any union.

Order for maintenance to extend to any place where the lunatic is.

293. An order for payment of the future expenses of maintenance of a lunatic shall extend to the payment of such expenses to the treasurer or manager of any institution for lunatics to which he is removed or in which he is for the time being confined.

The costs of pauper lunatics who are irremovable

294. All incidental expenses and expenses of maintenance of a lunatic removed to an institution for lunatics who would at the time of his removal have been exempt from removal to the parish of his settlement or the country of his birth by reason

of some provision of the Poor Removal Act, 1846, as amended by subsequent Acts, shall be paid by the guardians of the union wherein the lunatic has acquired such exemption, and no order shall be made in respect of such lunatic under any provision contained in this or any other Act upon the guardians of the union in which the lunatic is settled while the above-mentioned expenses are to be paid and charged as herein provided.

Section 294.
9 & 10 Vict.
c. 66.

The definition of "union," section 341, *post*, p. 454, prevents the application of the decision in *Reg. v. Leeds Overseers*, 17 L. T. 142, decided under section 5 of the Poor Law Amendment Act, 1849, 12 & 13 Vict. c. 103.

Poor Removal Act, 1846, and amending Acts.—The Poor Removal Act, 1846, 9 & 10 Vict. c. 66, has been amended by the 11 & 12 Vict. c. 111; the Poor Law Amendment Act, 1849, 12 & 13 Vict. c. 103, s. 4; the 24 & 25 Vict. c. 55, ss. 1, 2, and 3; the 27 & 28 Vict. c. 105; the Union Chargeability Act, 1865, 28 & 29 Vict. c. 79, s. 8; and the Poor Law Amendment Act, 1866, 29 & 30 Vict. c. 113, s. 17.

It is enacted by section 1 of the Poor Removal Act, 1846, 9 & 10 Vict. c. 66, that from and after the passing of this Act (26th August, 1846), no person shall be removed, nor shall any warrant be granted for the removal of any person from any parish [or union (24 & 25 Vict. c. 55, s. 1),] in which such person shall have resided for [one year (24 & 25 Vict. c. 55, s. 1, and 28 & 29 Vict. c. 79, s. 8),] next before the application for the warrant; provided always that the time during which such person shall be a prisoner in a prison, or shall be serving Her Majesty as a soldier, marine, or sailor, or resides as an in-pensioner in Greenwich or Chelsea Hospitals, or shall be confined in a lunatic asylum, or house duly licensed or hospital registered for the reception of lunatics (see 12 & 13 Vict. c. 103, s. 4), or as a patient in a hospital, or during which any such person shall receive relief from any parish (see 12 & 13 Vict. c. 103, s. 4), or shall be wholly or in part maintained by any rate or subscription raised in a parish in which such person does not reside, not being a *bonâ fide* charitable gift, shall for all purposes be excluded in the computation of time hereinbefore mentioned, and that the removal of a pauper lunatic to a lunatic asylum under the provisions of any Act relating to the care and maintenance of pauper lunatics shall not be deemed a removal within the meaning of this Act. (See 12 & 13 Vict. c. 103, s. 4.) There was also a further proviso to this section which is now repealed and superseded by the 11 & 12 Vict. c. 111: see *post*, p. 406.

Where a lunatic has become irremovable from a union, expenses are to be borne by that union, and not union of settlement: *Eastbourne v. Croydon*, [1910] 2 K. B. 16. See also note to section 303, *post*, as to right of appeal.

This statute does not prevent the removal of a pauper from a union in which he becomes chargeable to his union of settlement because he has acquired in a third union a status of irremovability. So where a pauper of weak intellect was found wandering and became chargeable in one union and had a status of irremovability in another union, it was held that he might nevertheless be removed to his union of settlement, which was different from either: *Reg. v. Wakefield* (1883), 48 J. P. 326.

Section 294. The mere bodily removal of a lunatic not able to exercise any choice in the matter does not amount to a break of residence under this Act. Accordingly, where a domestic servant settled in the Whitby Union had resided for more than a year in the Richmond Union, and was suddenly seized with mania and removed by her mother in that condition to the Stepney Union, and thence on the following day to the workhouse of that union, from which she was sent to the county asylum, it was held that an order for her maintenance ought properly to be made on the Richmond Union where she had acquired a status of irremovability not affected by the subsequent removal to the home of her parents in the Stepney Union, and not upon the Whitby Union which was the union of her settlement: *Reg. v. Whitby Union*, L. R. 5 Q. B. 325; 39 L. J. M. C. 97; 22 L. T. (N.S.) 336; 34 J. P. 725. See also *Reg. v. Bruce*, [1892] 2 Q. B. 136; 40 W. R. 686; 56 J. P. 567; and *Hendon v. Hampstead* (1893), 62 L. J. M. C. 170.

NOTE.

It should be observed that by section 56 of the Poor Law Amendment Act, 1834, 4 & 5 Will. 4, c. 76, relief given to or on account of the wife, or to or on account of any child or children under the age of sixteen not being blind or deaf and dumb, shall be considered as given to the husband of such wife, or to the father of such child or children, as the case may be, and any relief given to or on account of any child or children under the age of sixteen of any widow shall be considered as given to such widow. Consequently, the time during which the wife was maintained in a lunatic asylum at the expense of the guardians is not to be included in the time reckoned for the acquisition of a status of irremovability by the husband: *Reg. v. Overseers of St. George's, Bloomsbury* (1863), 4 B. & S. 108; 32 L. J. M. C. 217; 27 J. P. 662.

But where the wife maintained in the asylum as a pauper lunatic has lucid intervals, which entitle her from time to time to be discharged and during those periods she resides with her husband, and he resides in the same union continuously during the whole time, the various periods during which the husband receives no relief, his wife being with him, may be put together for the purpose of making up the full period of residence for the husband to acquire a status of irremovability under the statute: *Ipswich Union v. West Ham Union* (1887), 20 Q. B. D. 407; 58 L. T. (N.S.) 419; 36 W. R. 473; 52 J. P. 469.

The maintenance in an asylum of a child over sixteen, though residing with her parent before being sent to the asylum, and not having acquired any settlement in her own right, is not relief to the parent so as to prevent the acquisition of a status of irremovability: *Reg. v. St. Mary, Islington* (1862), 31 L. J. M. C. 233; 3 B. & S. 46; 9 Jur. (N.S.) 155; 6 L. T. (N.S.) 606.

The 11 & 12 Vict. c. 111, after reciting the whole of section 1 of the Poor Removal Act, 1846, and repealing the last proviso thereof, enacted, instead of the last proviso, that whenever any person should have a wife or children having no other settlement than his or her own, such wife and children should be removable, from any parish or place from which he or she would be removable, notwithstanding any provisions of the said recited Act, and should not be removable from any parish or place from which he or she would not be removable by reason of any provision in the said recited Act.

As to this proviso see *Reg. v. Overseers of St. Anne's, Blackfriars*, 22 Section 294. L. J. M. C. 137; *Reg. v. Overseers of St. Mary Arches, Exeter* (1862), 1 B. & S. 890; 31 L. J. M. C. 77; 5 L. T. (N.S.) 637; 8 Jur. (N.S.) 457; 26 J. P. 356; *Hendon v. Hampstead* (1893), 62 L. J. M. C. 170.

NOTE.

This proviso does not apply to the case of a wife living by consent apart from her husband in a different parish from that in which he resides, and from which he is irremovable: *East Retford Union v. Strand Union* (1862), 3 B. & S. 122; 32 L. J. M. C. 17; 27 J. P. 229; S. C. *sub nom. Reg. v. St. Clement Danes*, 7 L. T. (N.S.) 315.

And if, the husband being removable, the wife becomes insane and chargeable, and is removed to the workhouse of the union where her husband is residing, she may, with his consent, be removed to his union of settlement though he is not himself removed there: *Reg. v. Preston* (1883), 11 Q. B. D. 113; 52 L. J. M. C. 97; 49 L. T. 104; 48 J. P. 69.

Section 2 of the Poor Removal Act, 1846, enacts that no woman residing in any parish with her husband at the time of his death shall be removed, nor shall any warrant be granted for her removal from such parish for twelve calendar months next after his death, if she so long continue a widow.

Section 3 of the same Act provides that no child under the age of sixteen years, whether legitimate or illegitimate, residing in any parish with his or her father or mother, step-father or step-mother, or reputed father shall be removed, nor shall any warrant be granted for the removal of such child from such parish in any case where such father, mother, step-father, step-mother, or reputed father may not lawfully be removed from such parish.

Section 4 provides that no warrant shall be granted for the removal of any person becoming chargeable in respect of relief made necessary by sickness or accident, unless the justices granting the warrant shall state in such warrant that they are satisfied that the sickness or accident will produce permanent disability. See as to whether lunacy is a sickness within the meaning of this section: *Reg. v. Manchester Guardians* (1856), 6 E. & B. 919; 26 L. J. M. C. 1; 28 L. T. 82, 369; 2 Jur. (N.S.) 1205; 20 J. P. 726. See also *Burton v. Eyden* (1873), L. R. 8 Q. B. 295; 42 L. J. M. C. 115; 38 L. T. (N.S.) 408; 37 J. P. 693.

Section 5 enacts that no person hereby exempted from liability to be removed shall by reason of such exemption acquire any settlement in the parish. But see now section 34 of the Divided Parishes and Poor Law Amendment Act, 1876, 39 & 40 Vict. c. 61.

Section 4 of the Poor Law Amendment Act, 1849, 12 & 13 Vict. c. 103, provides that the removal of any lunatic pauper to an asylum, licensed house, or registered hospital under the authority of the statutes in that behalf, or of any pauper, otherwise than under an order of removal, from his place of abode in any parish of a union to the workhouse of such union, shall not be deemed an interruption of the residence of such pauper within the meaning of the (Poor Removal Act, 1846), but the time spent in such lunatic asylum, licensed house, or registered hospital, or workhouse respectively, and the time during which any person shall be relieved at the charge of the common fund of the union, shall be wholly excluded from

Section 294. the computation of the time of residence which, according to the provisions of such statute, will exempt a poor person from being removed. See as to this section, *Reg. v. West Ward Union* (1856), 7 E. & B. 21 ; 26 L. J. M. C. 29 ; 3 Jur. (N.S.) 185 ; 21 J. P. 212.

NOTE.

Section 2 of the 24 & 25 Vict. c. 55, enacts that where a child under the age of sixteen years, residing with its surviving parent, shall be left an orphan, and such parent shall at the time of death have acquired an exemption from removal by reason of a continued residence, such orphan shall, if not otherwise irremovable, be exempt from removal in like manner and to the same extent as if it had then acquired for itself an exemption from removal by residence.

Section 3 of the same Act provides, that where a married woman shall have been or shall be deserted by her husband, and shall after his desertion reside for [one year (29 & 30 Vict. c. 113, s. 17)], in such a manner as would if she were a widow render her exempt from removal, she shall not be liable to be removed from the parish wherein she shall be resident, unless her husband return to cohabit with her.

Section 1 of the 27 & 28 Vict. c. 105, enacts that in the case of any poor person heretofore chargeable or hereafter becoming chargeable in any parish comprised in a union not being the parish of his settlement, the period of time during which he shall have resided in the parish of the settlement, if in the same union, shall not be excluded in the computation of the time of residence required to render him exempt from removal under the statutes above referred to (*i.e.*, 9 & 10 Vict. c. 66, s. 1, and 24 & 25 Vict. c. 55, s. 1).

And section 2 of the same Act provides that nothing therein contained shall apply to any order of removal made and executed before the passing of the Act (29th July, 1864).

Irremovable Scotch, Irish, and Foreign Paupers.—It will be observed that this section extends to cases of exemption from removal, not only to the place of settlement, but also to the country of the lunatic's birth, as in the case of Irish, Scotch, Channel Islands, and foreign paupers, thus embodying the decision in *Reg. v. Arnold* (1852), 18 Q. B. 553 ; 21 L. J. M. C. 180 ; 19 L. T. 255 ; 17 Jur. 300, a case decided on section 5 of the Poor Law Amendment Act, 1849, 12 & 13 Vict. c. 103, in which there was no express mention of exemption from removal to the country of the lunatic's birth.

Order on Union of Irremovability.—Although there are not express words in this section giving power to the justices to make an order for payment of expenses by the guardians of the union in which the lunatic was at the time of his removal to the institution exempt from removal to the parish of his settlement or the country of his birth, the power is clearly implied by the section, and such an order may be obtained by the guardians of the union from which the lunatic was sent : *Leeds Guardians v. Wakefield Union* (1857), 7 E. & B. 258 ; 26 L. J. M. C. 37 ; 28 L. T. 265 ; 3 Jur. (N.S.) 292 ; S. C. *Reg. v. Leeds*, 21 J. P. 582. See *Reg. v. Bruce*, [1892] 2 Q. B. 136 ; 40 W. R. 686 ; 56 J. P. 567.

Time Governing Liability.—The time of removal to the institution for lunatics is the time pointed out by the statute as governing the liability ; if, therefore, at that time a status of irremovability has been acquired, subsequent loss of that status does not affect the question. So, where at

the time of the conveyance of an unemancipated lunatic child to an asylum, his father had acquired an exemption from removal from the parish in which he was residing, it was held that the subsequent removal of the father to another place outside the union in which such parish was situate, did not give jurisdiction to make an order on the parish of the father's settlement, but that the expenses of maintaining the lunatic should continue to be borne by the union in which the father was irremovable at the time the child was sent to the asylum: *Reg. v. Overseers of St. Giles-in-the-Fields* (1860), 30 L. J. M. C. 12; 3 L. T. (N.S.) 292; 24 J. P. 756. And where at the time of the sending of a wife to the asylum the husband was irremovable where he was then residing, but afterwards, whilst she was still in the asylum, left that union, it was held that the wife nevertheless remained chargeable to that union: *Thame v. Wandsworth* (1871), 36 J. P. 167.

Section 294.

NOTE.

295. The guardians upon whom an order might be made under this Act for the payment of any money may pay the same without an order, and may charge the same to such account as they could have done if an order had been made.

Charges may be paid without orders of justices.

When Money should be Paid without Order.—The money may be safely paid without an order by the guardians of the union from which the lunatic is sent to the institution, not only in cases where the pauper was irremovable, as referred to in the last preceding section, but in other cases; for in such other cases the union from which the pauper is sent is always liable, both for the incidental expenses and for the expenses of maintenance until the place of the lunatic's settlement is ascertained and an order made on the guardians thereof, or on the local authority in case it cannot be ascertained, for the repayment of such expenses.

But guardians of a union which is merely liable as being the place of settlement should be cautious of making any payments without an order.

Payments made under a mistake, and without an order of justices, by guardians upon whom no order could be made, cannot be recovered back by such guardians from the guardians upon whom an order might have been made: *Ipswich v. Macclesfield* (1890), 63 L. T. 526; 39 W. R. 221; 55 J. P. 134.

296. The liability of any relation or person to maintain any lunatic shall not be taken away or affected, where such lunatic is sent to or confined in any institution for lunatics, by any provision herein contained concerning the maintenance of such lunatic.

The liability of relations of pauper not to be affected.

Liability of Husbands for Wives.—The following enactments with respect to the liability of husbands for the maintenance of their wives in institutions for lunatics may be specially mentioned:—

By section 5 of the Poor Law Amendment Act, 1850, 13 & 14 Vict. c. 101, it is enacted that where any married woman being lunatic shall be duly removed to any asylum, licensed house, or registered hospital under any

Section 296. of the statutes in such behalf, any two justices having jurisdiction [in the union or parish the guardians whereof shall make the application (section 20 of the Divided Parishes and Poor Law Amendment Act, 1876, 39 & 40 Vict. c. 61)], upon application by or on behalf of the guardians of the union or parish to which such lunatic shall be or become chargeable, may summon such husband to appear before them to show cause why an order should not be made upon him to maintain or contribute towards the maintenance of his wife in such asylum, licensed house, or registered hospital; and upon his appearance, or in the event of his not appearing upon proof of due service of such summons upon him, such justices may (if they think fit) make an order upon him to pay such sum, weekly or otherwise, for or towards the cost of the maintenance of such lunatic, as after consideration of all the circumstances of the case shall appear to them to be proper, and determine in such order how and to whom the payments shall from time to time be made, which order shall, if the payments required by it to be made be in arrear, be enforced in the manner prescribed by the Summary Jurisdiction Act, 1848 (Jervis's Act), 11 & 12 Vict. c. 43, for the enforcing of orders of justices requiring the payment of a sum of money.

NOTE.

An order may be made on the husband under the foregoing enactments, notwithstanding that the wife has obtained a protection order under 20 & 21 Vict. c. 85, s. 21: *Oxford Guardians v. Barton* (1875), 39 J. P. 725.

If a rule *nisi* for a *certiorari* to bring up before the High Court an order made under the foregoing enactments be discharged, an appeal lies to the Court of Appeal without leave: *Reg. v. Pemberton* (1879), 5 Q. B. D. 95; 49 L. J. M. C. 29; 41 L. T. 664; 28 W. R. 662; 44 J. P. 184.

Liability of Wife for Husband.—As to the liability of the wife to contribute to the maintenance of the husband in an institution for lunatics, see 56 J. P. 366.

Expenses of removal, discharge and burial.

297. The necessary expenses attending the removal, discharge, or burial of a pauper lunatic in any institution for lunatics, shall be borne by the union to which the lunatic is chargeable, or the local authority liable for his maintenance, and shall be paid by the guardians of the union or by the treasurer of the local authority.

Removal and Burial of Out-county Lunatics.—Where the union to which the lunatic is chargeable is not in the county or borough to which the asylum belongs, the visiting committee may require the guardians to give an undertaking to pay for his removal or burial. See section 270 (2), *ante*, p. 379.

Provisions of Act as to expenses to extend to pauper lunatics sent to asylums under any other Act.

298. The provisions of this Act for the payment of expenses in relation to pauper lunatics shall be applicable with respect to persons confined as pauper lunatics sent to any institution for lunatics under any other Act authorising their reception therein as pauper lunatics, and (save as herein otherwise provided concerning any lunatic who shall appear to have any real or personal property applicable to his maintenance) with

respect to all other lunatics sent to any institution for lunatics under any order of a justice or justices made before the commencement of this Act, or under a summary reception order made by a justice under this Act, or under an order made by two or more Commissioners before or after the commencement of this Act, as if such last-mentioned lunatics were at the time of being so sent actually chargeable to the union from which they are sent. Section 298.

Orders in Respect to what Lunatics.—Orders may be made under this section for the payment of expenses in relation to—

- (1.) Persons confined as pauper lunatics sent to any institution for lunatics under any other Act authorising their reception therein as pauper lunatics (see section 8 of the Criminal Lunatics Act, 1884, *post*, and section 91 of the Army Act, 44 & 45 Vict. c. 58, as amended by section 6 of the Army (Annual) Act, 1891, 54 & 55 Vict. c. 5); and
- (2.) All other lunatics sent to any institution for lunatics—
 - (a.) Under any order of a justice or justices made before the commencement of this Act, or
 - (b.) Under a summary reception order made by a justice under this Act, *i.e.*, lunatics not under proper care and control or cruelly treated or neglected (see section 13, *ante*, p. 170) and wandering lunatics (see sections 15 and 16, *ante*, pp. 173, 174), or
 - (c.) Under an order made by two or more Commissioners either before or after the commencement of this Act (see section 23, *ante*, p. 182.

But, in the case of any lunatic falling within the second division above stated who may have any property applicable to his maintenance, justices are not to have power under section 299, *post*, to make orders for the recovery of expenses against the property of such lunatic as if he were actually chargeable.

And by section 22 of the Lunacy Act, 1891, *post*, the provisions of this Act for the payment of expenses in relation to pauper lunatics shall be applicable with respect to lunatics in institutions who become paupers.

Application of Lunatic's Property.

299. (1.) If it appears to any justice that a lunatic, chargeable to any union, or local authority, has any real or personal property more than sufficient to maintain his family, if any, such justice may by order direct a relieving officer of the union, or the treasurer or some other officer of the local authority, to seize so much of any money, and to seize and sell so much of any other personal property of the lunatic, and to receive so much of the rents of any land of the lunatic as the justice may think

Power to recover expenses against lunatic's estate.

Section 299. sufficient to pay the expenses of maintenance and incidental expenses respectively incurred or to be incurred in relation to the lunatic.

Where a relieving officer acting without an order of the local authority seized and sold the goods of a lunatic the guardians who adopted the act of such officer were held liable in an action for damages: *Barns v. Islington*, 76 J. P. 11.

Practice.—An order under this section should be applied for in open court: 55 J. P. 718. The justices have no power to give costs. The Summary Jurisdiction Acts have no application to such orders: see section 35 of the Summary Jurisdiction Act, 1848, 11 & 12 Vict. c. 43, and section 54 of the Summary Jurisdiction Act, 1879, 42 & 43 Vict. c. 49.

Justices acting under this section, cannot state a case under the Summary Jurisdiction Act, 1879: *Re Bethell* (1899), W. N. 47.

Receipt of Rents.—Power to receive rents under a justices' order does not include power to eject a tenant for non-payment of rent: 55 J. P. 718. If there is a mortgagee in possession the only remedy is by application to the Judge in Lunacy under sections 116, 117, *ante*, pp. 260, 266, as extended by section 1 of the Lunacy Act, 1908, *post*, p. 490.

This section may be applied in cases where a reception order has been made under section 13, *ante*, although the lunatic has been classified as a private patient in accordance with section 3 of the Lunacy Act, 1901, *post*: *Rex v. Fulham Guardians*, [1909] 2 K. B. 504.

Concurrent Right of Action.—The claim of the guardians for the past maintenance of a lunatic in an institution for lunatics is a debt recoverable by them after the death of the lunatic by action brought against his personal representatives, notwithstanding that the guardians may have taken no steps under this section in his lifetime: *Re Webster, Derby Union v. Sharratt* (1884), 27 Ch. D. 710; 54 L. J. Ch. 276; 51 L. T. (N.S.) 319. The claim of the guardians in such case is limited to six years' arrears of the expenses incurred for past maintenance: *Re Newbegin, Eggleton v. Newbegin* (1887), 36 Ch. D. 477; 56 L. J. Ch. 907; 57 L. T. (N.S.) 390; 36 W. R. 69. See also *In re Watson, Guardians of Stamford Union v. Bartlett*, [1899] 1 Ch. 72.

This section does not affect the Court in Lunacy which has jurisdiction to sanction an order for the application of the lunatic's property for his future maintenance, where there are any surplus funds: *Re Joseph Tye*, C. A., [1900] W. N. 8; [1900] 1 Ch. 249.

Further Remedies.—In addition to the remedy given under this sub-section, see the notes to the following sub-section and section 300 and the notes thereto, *post*, p. 415.

[Indemnity to trustee, &c., repaying charges.]

(2.) If any trustee, or the Bank, or any other society or person having possession of any property of a lunatic, shall pay or deliver to a relieving officer of a union, or to the treasurer or other officer of the local authority to which respectively a lunatic is chargeable, any money or other property of the

lunatic, to repay the charges in this section mentioned, whether **Section 299.** pursuant to an order under this section, or without an order, the receipt of such relieving officer, treasurer, or officer shall be a good discharge.

No obligation to Pay.—It will be observed that this sub-section imposes no compulsory obligation upon parties in possession; it merely empowers them to pay with safety: 57 J. P. 443.

Statute of Limitation.—Where by an order in lunacy a receiver paid to the guardians of a union a sum inadequate for maintenance, on the death of the lunatic it was held that the payments by the receiver took the case out of the Statute of Limitations and guardians were entitled to the balance of arrears: *Wandsworth Union v. Worthington*, [1906] W. N. 34; [1906] 1 K. B. 420. See also *Smith v. Islington Guardians*, 66 J. P. 664; and *Re Williams' Trust*, 96 L. T. 563.

Jurisdiction of Chancery Division of High Court.—Where money to which a pauper lunatic is entitled has been paid into court under the Trustee Relief Acts, the guardians may apply by petition for the payment thereof of the expenses incurred by them for his maintenance in the county lunatic asylum, and the court has jurisdiction to make an order independently of the jurisdiction in lunacy: *Re Upfull's Trust*, 3 Mac. & G. 281; 21 L. J. Ch. 119; *Re Parker*, 2 W. R. 139; *Re Ward's Estate*, *ibid.*, 406; *Re Drewery's Trust*, *ibid.*, 436. The court has a discretion to order such repayment or not as it may think most for the benefit of the lunatic: *Re Buckley*, 1 Johns. 700. And the court will only direct payment of six years' arrears of maintenance: *Re Harris* (1880), 49 L. J. Ch. 327. On the death of the lunatic so entitled, the claim of the guardians for past maintenance is a mere debt payable by his legal personal representative in a due course of administration: *Re Marman's Trusts* (1878), 8 Ch. D. 256; 38 L. T. (N.S.) 797; 26 W. R. 621. Where a receiver has been appointed by the Court in Lunacy with instructions to pay a part of the income of the lunatic's estate to the guardians of a union who claimed six years' arrears of maintenance, it was held that the guardians could still claim the balance of arrears due to them on the death of the lunatic, and that the order in lunacy afforded no bar to the action: *In re Taylor, Edmonton Union v. Deely*, C. A., [1901] W. N. 21; [1901] 1 Ch. 480.

Where the claim of the guardians was in respect of the maintenance of a lunatic in the workhouse, the court refused to allow any portion of the fund to be paid to the guardians for past maintenance, but permitted the dividends to be paid to their nominee, he undertaking to apply them for the benefit of the lunatic in the future: *Re Coleman's Trusts*, 14 L. T. (N.S.) 587.

Where a receiver of funds has been appointed by the Court in Lunacy the guardians of a union may be restrained from levying distress to enforce a magisterial order: *Winkle v. Bailey* (1896) W. N. 175 (11); [1897] 1 Ch. 123.

Jurisdiction of Palatine Court.—The Lancaster Court of Chancery has a similar jurisdiction under section 12 of the Court of Chancery of Lancaster

Section 299. Act, 1850, 13 & 14 Vict. c. 43, notwithstanding section 23 of the same Act :
Re Edwards, 10 Ch. D. 607.

NOTE.

So also has the Durham Court of Chancery under section 6 of the Palatine Court of Durham Act, 1889, 52 & 53 Vict. c. 47.

Recovery of Expenses out of Periodical Payments.—In addition to the remedies above referred to, it is provided by section 23 of the Divided Parishes and Poor Law Amendment Act, 1876, 39 & 40 Vict. c. 61, that where any pauper shall be entitled to any annuity or other periodical payment, the trustees or other person bound to make payment of the same to the pauper may from time to time pay to the board of guardians of any union or parish, out of the instalments which have become due, the cost incurred in the relief of such pauper accrued since the last instalment, and such payment shall be a legal discharge to such trustee or other person for so much money as shall have been so paid.

It is also further provided by the same section that where the guardians incur any expenses in the relief of a pauper lunatic, being a member of a benefit or friendly society (whether registered or not: *Merthyr Tydvil Guardians v. Cambrian Lodge* (1881), 45 J. P. 220), and as such entitled to any payment, they may recover from him as a debt, or from his executors, administrators, or assigns, in case of his death, the sum so expended by them, and the managing body of that society, after notice from the clerk of the guardians, served previously to the money being paid over, shall be required to pay the same to such guardians, and shall be exonerated on payment thereof from any further liability.

It has been held that a trade union is not a benefit or friendly society within the meaning of this part of the section: *Winder v. Kingston-upon-Hull Governors* (1888), 52 J. P. 535.

The same section then goes on to enact that where any trustee, manager, or other person shall decline to make any payments, the guardians may apply to the justices in petty sessions assembled, and such justices may, if satisfied that it is right under all the circumstances to do so, make an order upon him to pay the requisite amounts then due to the guardians at once, and to pay from time to time in future as the liability in respect of the relief arises thereafter. Provided that this clause shall not have effect unless and until the guardians or their relieving officer shall have declared the relief to be given on loan, nor in respect of any relief granted contrary to the rules and orders made under the authority of the statutes in that behalf.

And it is further enacted by section 1 of the Poor Law Amendment Act, 1879, 42 Vict. c. 12, that the provisions of section 23 of the Divided Parishes and Poor Law Amendment Act, 1876, shall not apply to any moneys which a pauper or pauper lunatic having a wife or other relative dependent upon him for maintenance may be entitled to receive as a member of any friendly or benefit society, but such moneys shall, subject to any deductions in keeping up his membership required by the rules of such society, or any branch thereof, from which such pauper or pauper lunatic is entitled to receive such moneys, be paid or applied by the trustees, committee, or other officers of such society or branch to or for the maintenance of such wife or relative; and where a pauper or pauper lunatic having no wife or

relative so dependent upon him is entitled to any such moneys, no claim shall be made under the said Act by the guardians of any union or parish upon any such society of which he is a member, or against any branch thereof, for the expenses incurred in his relief unless and until the guardians or their relieving officer shall have declared the relief to be given on loan, and shall have, within thirty days thereof, notified the same in writing to the secretary or trustees of the society or branch of which the pauper or pauper lunatic is a member, and as such entitled to receive any payment.

Section 299.
NOTE.

It has been held that insanity is a "sickness" within the meaning of that word as used in the rules of a friendly society: *Burton v. Eyden* (1873), L. R. 8 Q. B. 295; 42 L. J. M. C. 115; 38 L. T. (N.S.) 408; 37 J. P. 693. The rules of the society may provide that no member shall be entitled to receive sick pay whilst an inmate of a workhouse or a lunatic asylum, in which case the claim of the guardians will be defeated: *Caister Union v. Cleaver* (1891), 55 J. P. 503. And if the right of the pauper to the periodical payment is disputed by the society, the justices have no jurisdiction to make an order: *Reg. v. Richardson*, [1894] 2 Q. B. 323; 70 L. T. 805; 42 W. R. 540. But when the justices have made an order they are bound to issue a distress warrant, and the only remedy of the society is by appeal against the original order: *Reg. v. Swindon JJ.* (1878), 42 J. P. 407.

300. An order may be made by a judge of county courts upon an application by the guardians of any union for payment of the expenses incurred by them under this Act in relation to a lunatic, and such order may be enforced against any property of the lunatic in the same way as a judgment of the county court.

Order by
county court
judge.

Practice.—By the County Court Rules, Order 50, R. 17, applications to a judge under sections 300 and 132 of the Lunacy Act, 1890, shall be made by petition, and the same procedure shall be followed, and the same costs and fees allowed, as on any petition under Order 38.

Execution of County Court Judgments.—As to the execution of county court judgments, see sections 146 *et seq.* of the County Courts Act, 1888, 51 & 52 Vict. c. 43, and the County Court Rules, 1903, Order 25.

Power to seize Money in Possession of Pauper.—It may also be observed that, by section 16 of the Poor Law Amendment Act, 1849, 12 & 13 Vict. c. 103, it is enacted that where any pauper shall have in his possession or belonging to him any money or valuable security for money, the guardians of the union or parish within which such pauper is chargeable may take and appropriate so much of such money or the produce of such security, or recover the same as a debt before any local court, as will reimburse the said guardians for the amount expended by them, whether on behalf of the common fund or of any parish, in the relief of such pauper, during the twelve months prior to such taking and appropriation, or prior to such proceeding for the recovery thereof (as the case may be).

A judgment signed in favour of a pauper at the time of his receiving relief is a "valuable security" within the meaning of this section: *West Ham Union v. Ovens* (1872), L. R. 8 Ex. 37; 42 L. J. M. C. 29; 27 L. T. (N.S.) 616; 21 W. R. 143.

Section 300. And it is further enacted by the same section that in the event of the death of any pauper having in his possession or belonging to him any money or property, the guardians of the union or parish wherein such pauper shall die may reimburse themselves the expenses incurred by them in and about the burial of such pauper, and in and about the maintenance of such pauper at any time during the twelve months previous to the decease. But under this part of the section the guardians have no preferential claim as against other creditors: *Laver v. Botham or Chesterfield Union* (1894), 43 W. R. 25; 29 L. J. Notes of Cases, 629.

NOTE.

Administration to Deceased Pauper.—Having regard to this latter part of the section, administration of the estate and effects of a pauper, who died a spinster and intestate without any known relation, was granted to the guardians of the union to which she had been chargeable for some years previously and who had expended money for her burial: *Cleaver v. M'Kenna* (1865), 35 L. J. P. & M. 91.

So also where a pauper lunatic died intestate in the county lunatic asylum, where he had been maintained for many years at the expense of the union to which he belonged, leaving one sister, his only next-of-kin, also a lunatic and an inmate of the workhouse, and at the time of his death the pauper lunatic was entitled to a sum of 400*l.* 3 per cent. consols, standing in the name of trustees; administration of his estate and effects was granted to the nominee of the guardians for the use and benefit of his sister, during her lunacy and until she should be of sound mind, on giving the usual security: *Windeatt v. Sharland* (1871), L. R. 2 P. & D. 217, 266; 41 L. J. P. & M. 9; 23 L. T. (N.S.) 877; 25 L. T. (N.S.) 574; 20 W. R. 211.

In another case, where a pauper lunatic died intestate in the county lunatic asylum, where she had been maintained for several years at the expense of the union to which she belonged, but the guardians took no steps during her lifetime for the recovery of such expenses, and it appeared on her death that she had been entitled during the whole time to an annuity payable by the National Debt Commissioners, on citation issued to which none of the next-of-kin appeared, administration was granted to the nominee of the guardians, the court, however, intimating that the assent of the Queen's Proctor should be first obtained: *Lambeth Guardians v. Bradshaw* (1886), 57 L. T. (N.S.) 86; 50 J. P. 472. In a very similar case the Queen's Proctor was accordingly cited as well as the next-of-kin: *In the Goods of Elizabeth Reeves* (1890), 55 J. P. 24.

In another case, a pauper lunatic died in the county lunatic asylum, a spinster and intestate, leaving four brothers and one sister surviving her, and three of the brothers and the sister renounced their right to administration. The other brother had gone to America and had not been heard of for five years. The lunatic had been maintained in the asylum at the expense of the guardians for four years, and was found at her death to be entitled to a little over 100*l.* in bank shares. The brother who had gone to America having been cited by advertisement under order of the court, the court granted administration to the clerk to the board of guardians as their nominee: *In the Goods of Byrne* (1888), 52 J. P. 281. The cases of *In the Goods of Luce* (1890), 54 J. P. 695, and *In the Goods of King* (1893), 58 J. P. 464, are very similar to this case.

In another case a person died without next-of-kin, and indebted to the guardians for out-relief, and left a duly executed will, but never appointed an executor, and on an application by the guardians, of which notice was duly served on the solicitor to the Treasury, administration was granted to the nominee of the guardians: *In the Goods of Baldwin* (1891), 55 J. P. 344. Section 300.
NOTE.

Administration for use of Pauper Lunatic.—Administration of the estate and effects of sane persons who have died intestate has also been granted to the nominee of the guardians for the use and benefit of pauper lunatic next-of-kin maintained at the expense of the guardians.

For instance, where a widow died intestate, leaving her daughter as the only person entitled in distribution, and the daughter had been for some years maintained in the county lunatic asylum at the expense of the guardians, the guardians obtained an order of justices to seize and sell the property of the lunatic, and afterwards applied for a grant of administration to their clerk for the use and benefit of the pauper lunatic, citing her next-of-kin, none of whom appeared. The court made the grant as prayed under the powers conferred by section 73 of the Probate Act, 1858, 20 & 21 Vict. c. 77, for the use and benefit of the lunatic and limited to the period of her lunacy, but required an inventory, and that the sureties should justify: *Mile End Old Town Guardians v. Findlay* (1863), 3 Sw. & Tr. 265; 33 L. J. P. & M. 21; 9 L. T. (N.S.) 346; 9 Jur. (N.S.) 1253; S. C. *Southwell v. Findlay*, 27 J. P. 760.

So also where the husband of a deceased intestate was a pauper lunatic maintained in an asylum at the expense of the guardians, notice having been given to his father who was in the workhouse and no appearance entered, the court made a grant to the officer nominated by the guardians for the use and benefit of the lunatic, limited to such time as he should remain insane: *In the Goods of Eccles* (1889), 15 P. D. 1; 61 L. T. (N.S.) 652; 54 J. P. 55.

In another case, the value of the whole property of an intestate who died leaving a widow but no issue did not exceed 500*l.* The widow was a pauper lunatic, confined in the county asylum, and her father having renounced his right to take the grant on her behalf, administration was granted to the nominee of the guardians to whom the lunatic was indebted for her maintenance, without citing the next-of-kin of the intestate or of the lunatic: *In the Goods of Everley*, [1892] P. 50; 61 L. J. P. & D. 53; 65 L. T. 765.

In one case Sir J. P. WILDE refused to grant administration of the estate and effects of an intestate, amounting to about 644*l.*, to a stranger for the use and benefit of the only next-of-kin, who was a lunatic not so found, without an order first obtained under section 12 of the Lunacy Regulation Act, 1862, 25 & 26 Vict. c. 86 [see section 116, *ante*], rendering the property of the lunatic available for her maintenance: *Re Slumbers* (1865), 4 Sw. & Tr. 32; 34 L. J. P. & M. 93; 12 L. T. (N.S.) 582. This point, however, is not reported to have been taken on any application by guardians for administration to be granted to their nominee.

Section 301.

Appeals.

Persons
aggrieved
by refusal of
an order may
appeal to the
sessions.

301. (1.) Any person aggrieved by the refusal of an order by any justice or justices as to any matter within the jurisdiction of a justice or justices under this Part of this Act, may appeal to a court of quarter sessions upon giving to the justice or justices against whom the appeal is made fourteen clear days' notice of appeal.

(2). The determination of the court upon the appeal shall be final.

Party ob-
taining
order of
adjudication
to send copy
thereof and
statement of
grounds.

302. The guardians of any union, and the clerk of a local authority, obtaining any order under this Act adjudging the settlement of any lunatic to be in any union, shall, within a reasonable time after the date of the order, send or deliver, by post or otherwise, to the guardians of the union in which the lunatic is adjudged to be settled, a copy of the order, and also a statement in writing under the hand of the clerk to the guardians, or under the hand of the clerk of the local authority, as the case may be, stating the description and address of the guardians or clerk obtaining the order, and the place of confinement of the lunatic, and setting forth the grounds of the adjudication, including the particulars of any settlement relied upon in support thereof; and on the hearing of any appeal against the order the respondents shall not give evidence of any other grounds in support of the order than those set forth in such statement.

As to the sufficiency of the statement and the power of the sessions to amend it, see section 307, *post*, p. 421.

If the statement omits to give the address of one of the guardians obtaining the order, the statement, if not good under this section, is amendable under section 307, *post*: *Reg. v. Manchester Guardians* (1856), 6 E. & B. 919; 26 L. J. M. C. 1; 28 L. T. (N.S.) 82; 2 Jur. (N.S.) 1205; 20 J. P. 726.

Appeal
against order
of adjudica-
tion.

303. If the guardians of any union feel aggrieved by any order adjudging the settlement of a lunatic, they may appeal to the quarter sessions for the county or borough on behalf of which the order has been obtained, or in which the union obtaining the order is situate, or, in case such union extends into several counties, then to the next quarter sessions for the county or borough in which the institution for lunatics where the lunatic is or has been confined is situate, and such sessions, upon hearing the appeal, shall have full power finally to determine the matter.

This section is a re-enactment of section 108 of the Lunatic Asylums Act, Section 303. 1853, 16 & 17 Vict. c. 97, omitting the reference to overseers (notwithstanding *Reg. v. Medway Union* (1868), L. R. 3 Q. B. 383; 37 L. J. M. C. 100; 18 L. T. (N.S.) 431; 9 B. & S. 439), and inserting the words "or borough" in the first part of the section, where it says:—"They may appeal to the quarter sessions for the county or borough on behalf of which the order has been obtained." See previously, 8 & 9 Vict. c. 126, s. 62; 9 Geo. 4, c. 40, s. 46; 5 Geo. 4, c. 71, s. 4.

NOTE.

Appeal to what Sessions.—The effect of this latter alteration apparently is to reverse the decision in *Reg. v. Warwickshire JJ.* (1859), 28 L. J. M. C. 249; 33 L. T. (N.S.) 201; 5 Jur. (N.S.) 1292; 23 J. P. 757. In that case it was held that where an order adjudging the settlement of a pauper lunatic, confined in the lunatic asylum of a borough, having a separate court of quarter sessions, was obtained by a parish situate wholly within the borough, and was made by two justices of the borough, and the asylum was situate in the borough, the appeal lay to the county, and not to the borough sessions. Now, however, it seems that in such case the appeal would lie to the borough sessions.

The latter part of the section provides for cases where the union or parish is partly in one county and partly in another. The word "counties" is substituted for the word "jurisdictions," which was used in the earlier enactment, thus incorporating the construction placed upon that word in *Reg. v. Kent JJ.* (1866), L. R. 1 Q. B. 385; 35 L. J. M. C. 201; 14 L. T. (N.S.) 331; 7 B. & S. 394, in which it was held that where a union was partly in a borough having a separate court of quarter sessions, and partly in the county (the borough being also in the county), the appeal lay to the county quarter sessions, although the lunatic was confined in an asylum situated in another borough having a separate court of quarter sessions, but being within the same county.

Notice of Appeal.—As to the time within which notice of appeal must be given, see section 305, *post*, p. 420.

Where the notice is erroneously given to the borough sessions, and before any steps taken upon it, the mistake is discovered too late to give fresh notice, and the other side are at once informed of the error, and asked to treat it as a notice to the county sessions, the mention of the borough sessions may be treated as surplusage, but not if the appellants act upon the notice, and appear at the borough sessions, and are defeated there: *Reg. v. Salop JJ.* (1854), 4 E. & B. 257; 24 L. J. M. C. 14; 18 Jur. 1080; 19 J. P. 149.

Adjournment.—The sessions have, by virtue of their general jurisdiction, power to adjourn the hearing of an appeal brought under this section to the next sessions, even if it has been partly heard, by entering continuances and adjourning it to the next sessions; but in view of the great inconvenience which would attend, in many cases, the exercise of this power, it should be exercised most sparingly and cautiously: *Reg. v. Cambridge Union* (1861), 1 B. & S. 61; 30 L. J. M. C. 137; 7 Jur. (N.S.) 1073.

This section must be read as giving a right of appeal not only on the question of the adjudication of the settlement but also on the question of irremovability: *Eastbourne v. Croydon*, [1910] 2 K. B. 16.

Section 304. **304.** (1.) The clerk to the justices making an order adjudging the settlement of a lunatic, or the clerk of the peace in the case hereinafter provided for, shall keep the depositions upon which the order was made, and shall, within seven days after application by any party authorised to appeal against the order, furnish a copy of the depositions to the applicant.

Copy of depositions to be furnished on application.

(2.) The person applying for a copy of the depositions shall pay for the same at the rate of twopence for every folio of seventy-two words.

[Payment for copy.]

(3.) No omission or delay in furnishing a copy of the depositions shall be a ground of appeal against the order.

[Delay no ground of appeal.]

(4.) On the trial of any appeal no such order shall be quashed or set aside either wholly or in part on the ground that the depositions do not furnish sufficient evidence to support, or that any matter therein contained or omitted raises an objection to the order or grounds on which the same was made.

[Insufficiency of deposition no ground for quashing order.]

Hearsay Evidence.—It is no valid ground of objection on appeal against an order of adjudication of settlement and chargeability that it appears by the depositions to have been made upon hearsay evidence only: *Reg. v. St. Peter, Barton-upon-Humber* (1851), 17 Q. B. 630; 21 L. J. M. C. 23.

Estoppel.—The quashing of a prior order of adjudication is conclusive evidence between the same parties that the pauper lunatic was not settled in the parish where that order adjudicated him to be settled at the date when it was quashed: *Heston v. St. Bride* (1853), 1 E. & B. 583; 22 L. J. M. C. 65; 20 L. T. (N.S.) 235; 17 Jur. 757.

(5.) If the justices who make any such order have no clerk, they shall send or deliver the depositions to the clerk of the peace of the county or borough to the quarter sessions whereof the appeal lies, and the party obtaining such order shall, in the statement of the grounds of adjudication, state that the justices have no clerk.

[Where no justices' clerk, depositions to be sent to clerk of peace.]

305. No appeal shall be allowed against any such order if notice in writing of the appeal is not sent or delivered by post or otherwise to the party on whose application the order was obtained within twenty-one days after the sending or delivery, as hereinbefore directed, of a copy of the order, and such statement as hereinbefore mentioned, unless within the twenty-one days a copy of the depositions has been applied for by the party intending to appeal, in which case a further period of fourteen days after the sending of such copy shall be allowed for giving notice of appeal.

No appeal if notice not given within a certain time.

Time for Notice.—The notice will be in time if posted on the last of the twenty-one days after the sending of the copy order and statement of grounds under section 302, *ante* ; but, if a copy of the depositions has been applied for within the twenty-one days, then the notice will be in time if posted on the last of the twenty-one days or on the last of fourteen days from the day when the copy of the depositions was furnished to the intending appellants, whichever period may be longest. The days are to be reckoned inclusive of the last day, but exclusive of the day on which the copy order was sent, or the copy of the depositions was furnished, as the case may be : *Williams v. Burgess* (1840), 12 A. & E. 635 ; 4 P. & D. 443 ; 9 Dowl. 544.

Section 305.

NOTE.

306. In every case where notice of appeal against such order is given the appellant shall, with the notice, or fourteen days at least before the first day of the sessions at which the appeal is to be tried, send or deliver by post or otherwise to the respondent a statement in writing under his hand, or where the appellants are the guardians of a union, under the hand of the clerk to the guardians, of the grounds of such appeal ; and the appellant shall not, on the hearing of any appeal, give evidence of any other grounds of appeal than those set forth in such statement.

Grounds of appeal to be stated.

This amendment overrules the quarter sessions cases noted in 46 J. P. 488, and 49 J. P. 248. As to the law previously to 1853, see 8 & 9 Vict. v. 126, s. 62 ; 4 & 5 Will. 4, c. 76, s. 81.

Computation of Time.—In reckoning the fourteen days, the first day of the sessions at which the appeal is to be tried is not to be counted : *Reg. v. Shropshire JJ.* (1838), 8 A. & E. 173.

Sufficiency and Amendment of Statement.—As to the sufficiency of the statement and the power of the sessions to amend it, see the following section.

307. (1.) Upon the hearing of any appeal against any such order no objection whatever on account of any defect in the form of setting forth any ground of adjudication or appeal in any such statement shall be allowed, and no objection to the reception of legal evidence offered in support of any such ground alleged to be set forth in any such statement shall prevail, unless the court is of opinion that such alleged ground is so imperfectly or incorrectly set forth as to be insufficient to enable the party receiving the same to inquire into the subject of such statement, and to prepare for trial.

As to the sufficiency of statement of grounds of adjudication or appeal.

See also the analogous provisions of the first clause of section 3 of Baines's Act, 12 & 13 Vict. c. 45.

Finality of Decision.—The decision of the court as to the sufficiency and

Section 307. effect of the statement of grounds in support of the order and appeal is final : section 310, *post*.

NOTE.

[Amendment of grounds.]

(2.) In all cases where the court is of opinion that any such objection to such statement or to the reception of evidence ought to prevail, the court may, if it thinks fit, cause any such statement to be forthwith amended by some officer of the court, or otherwise, on such terms as to payment of costs to the other party, or postponing the trial to another day in the same sessions, or to the next subsequent sessions, or both payment of costs and postponement, as to the court appears just.

See also the analogous proviso to section 3 of Baines's Act, 12 & 13 Vict. c. 45.

Finality of Decision.—The decision of the court upon the amending or refusing to amend the statement of grounds is final : section 310, *post*.

See also notes to section 302, *ante*, p. 418.

Power for court to amend order on account of omission or mistake.

308. (1.) If, upon the trial of any appeal against any such order, or upon the return to a writ of *certiorari*, any objection is made on account of any omission or mistake in drawing up the order, and it is shown to the satisfaction of the court that sufficient grounds were proved before the justices making the order to authorise the drawing up thereof free from the omission or mistake, the court may, upon such terms as to payment of costs as it thinks fit, amend the order, and give judgment as if no omission or mistake had existed.

See also the analogous provisions of the first enacting clause of section 7 of Baines's Act, 12 & 13 Vict. c. 45.

Finality of Decision.—The decision of the court upon the amending or refusing to amend the order is final : section 310, *post*.

Unauthorised Amendment.—It is not competent to the court upon the trial of an appeal to make such an amendment of the order as would affect new parties, who had never been before the justices making the order, and were not before the court on the appeal : *Reg. v. Liverpool* (1860), 29 L. J. M. C. 137 ; 2 L. T. (N.S.) 173 ; 6 Jur. (N.S.) 1028 ; 24 J. P. 646.

[Omission or mistake to be specified in rule *nisi*.]

(2.) No objection on account of any omission or mistake in any such order brought up upon a return to a writ of *certiorari* shall be allowed, unless the omission or mistake has been specified in the rule for issuing such writ of *certiorari*.

See also the analogous proviso to section 7 of Baines's Act, 12 & 13 Vict. c. 45.

Power of court as to costs.

309. (1.) Upon every such appeal the court before whom the same is brought may, if it thinks fit, order the party against

whom the same is decided, to pay to the other such costs and charges as may to the court appear just, and shall certify the amount thereof. **Section 309.**

The sessions by which the appeal is heard and determined is the only court competent to make an order and certificate as to costs under this section, and therefore any order for costs made at a subsequent sessions will be invalid: *Reg. v. Staffordshire JJ.* (1857), 26 L. J. M. C. 179; 3 Jur. (N.S.) 1148; 22 J. P. 209.

(2.) If either of the parties to the appeal have included in the statement of grounds of adjudication or of appeal sent to the opposite party any grounds in support of the order or of appeal which, in the opinion of the court determining the appeal, are frivolous and vexatious, such party shall be liable, at the discretion of the court, to pay the whole or any part of the costs incurred by the other party in disputing any such grounds. [Costs of frivolous and vexatious grounds.]

See also the analogous provisions of section 4 of Baines's Act, 12 & 13 Vict. c. 45.

310. The decision of the court upon the hearing of any appeal against any such order, as well as upon the sufficiency and effect of the statement of the grounds in support of the order and appeal, and of the copy or duplicate of the order sent to the appellants, as upon the amending or refusing to amend the order as aforesaid, or the statement of grounds, shall be final, and shall not be liable to be reviewed in any court by means of a writ of *certiorari* or *mandamus* or otherwise. Decision upon appeal to be final.

See the analogous provisions of section 9 of Baines's Act, 12 & 13 Vict. c. 45.

Finality of Decision.—By section 301 (2), *ante*, the determination of the court upon an appeal under that section is final.

By section 303, *ante*, the sessions, on hearing an appeal by guardians against any order adjudging the settlement of a lunatic, have full power finally to determine the matter.

The present section only relates to the final determination of—

- (1.) The sufficiency and effect of the statement of grounds in support of the order and appeal, and of the copy or duplicate order sent to the appellants; and
- (2.) The amendment or refusal to amend the order or the statement of grounds.

311. (1.) In any case in which an order has been made as aforesaid, and a copy thereof sent as herein required, the party who has obtained the order, whether any notice of appeal Abandonment of orders.

Section 311. against the order has been given or not, and whether any appeal has been entered or not, may abandon the order, by notice in writing under the hand of such party, or, where the order has been obtained by the guardians of a union, under the hand of the clerk to the guardians, to be sent by post or delivered to the appellant or the party entitled to appeal, and thereupon the order and all proceedings consequent thereon shall be void, and shall not be given in evidence, in case any other order for the same purposes is obtained.

Notice of abandonment may be given even after the appeal has come on for hearing and been rescripted on terms at a previous sessions: *Killymaenllwydd v. St. Michael's, Pembroke* (1851), 21 L. J. M. C. 79; 16 J. P. 150.

[Costs on abandonment of orders.]

(2.) In all cases of such abandonment the party abandoning shall pay to the appellant or the party entitled to appeal the costs which he has incurred by reason of the order and of all subsequent proceedings thereon.

[Taxation of costs on abandonment of order.]

(3.) The proper officer of the court before whom the appeal (if it had not been abandoned) might have been brought shall, upon application, tax and ascertain the costs, at any time, whether the court is sitting or not, upon production to him of the notice of abandonment, and upon proof to him that such reasonable notice of taxation, together with a copy of the bill of costs, has been given to the guardians, or clerk abandoning the order, as the distance between the parties shall in his judgment require: and thereupon the sum allowed for costs, including the usual costs of taxation, which such officer is hereby empowered to charge and receive, shall be endorsed upon the said notice of abandonment, and the said notice so endorsed shall be filed among the records of the said court.

The word "clerk" in this sub-section means "clerk of the local authority": see section 341, *post*, p. 447.

Taxation and Payment of Law Bills of Guardians.—See also as to the taxation of law bills of the guardians by the clerk of the peace, section 39 of the Poor Law Amendment Act, 1844, 7 & 8 Vict. c. 101.

And as to payment, see section 5 of the 22 & 23 Vict. c. 49, cited in the notes to section 314 (2), *post*, p. 427. The time limited by that section will run from the date of the notice of abandonment, for taxation is not of the essence of the debt itself. See *West Ham v. Bath* (1889), 54 J. P. 69.

Guardians and officers interested to have access to the lunatic.

312. In every case of an inquiry, or appeal as to the union in which a pauper lunatic is settled, the guardians, clerks of the guardians, and relieving officers of every union interested in the

inquiry or appeal, and every person duly authorised by them respectively, and the clerk of the local authority interested in the inquiry or appeal, and every person duly authorised by him, shall at all reasonable times be allowed free access, in the presence of the medical attendant, to the lunatic to examine him as to the premises. Section 312.

See also as to visits by the guardians of any union, or by a medical practitioner appointed by them to pauper lunatics *chargeable to the union*, confined in any institution for lunatics, section 201, *ante*, p. 331.

313. The provisions of section thirty-one of the Summary Jurisdiction Act, 1879, shall not apply to appeals under this Part of this Act. Section 31 of 42 & 43 Vict. c. 49 not to apply.

The section here referred to relates to the procedure on appeals from a court of summary jurisdiction to a court of general or quarter sessions.

No alteration of the law results from this enactment, as by section 54 of the Summary Jurisdiction Act, 1879, 42 & 43 Vict. c. 49, it was enacted, amongst other things, that that Act should be subject to the exceptions specified in section 35 of the Summary Jurisdiction Act, 1848.

And by section 35 of the Summary Jurisdiction Act, 1848, 11 & 12 Vict. c. 43, it was enacted, amongst other things, that nothing in that Act should extend or be construed to extend to any complaints or orders made with respect to lunatics, or the expenses incurred for the lodging, maintenance, medicine, clothing, or care of any lunatic or insane person.

Recovery of Expenses.

314. (1.) If the treasurer of any local authority, upon whom any order of justices for the payment of money under the provisions of this Act is made, refuses or neglects for twenty days after due notice of such order to pay the money, the money, together with the expenses of recovering the same, shall be recovered by distress and sale of the goods of the treasurer so refusing or neglecting, by warrant under the hands of any two justices authorised to make the order for payment of the money, or by an action at law, or by any other proceeding in a court of competent jurisdiction, against the treasurer. Money ordered to be paid may be recovered by distress or action.

By section 19 (2) of the Lunacy Act, 1891, *post*, p. 483, the provisions of this section are applied to orders for the repayment of costs under that section.

(2.) If the guardians upon whom any such order is made refuse or neglect for such time as aforesaid to pay the money, the same, together with the expenses of recovering the same, may be recovered by an action at law, or by any other proceeding in any such court. [Recovery from guardians.]

Section 314. *Payment of Debts by Guardians.*—Section 1 of the 22 & 23 Vict. c. 49, provides that every debt, claim, or demand incurred by or due from the guardians of any union or parish shall be paid within the half-year in which the same shall have been incurred or become due, or within three months after the expiration of such half-year, but not afterwards, the commencement of such half-year to be reckoned from the time when the last half-year's accounts shall or ought to have been closed according to the order of the Poor Law Commissioners or Poor Law Board: Provided that the [Local Government] Board by their order may, if they see fit, extend the time within which such payment shall be made, for a period not exceeding twelve months after the date of such debt, claim, or demand.

NOTE.

A judgment of the Court of Appeal, against guardians, does not constitute a "debt, claim, or demand lawfully incurred or become due" within the meaning of section 1 of the 22 & 23 Vict. c. 49, until the amount has been determined on taxation, and the time for payment limited by that Act runs from the date of allocation and not from date of judgment: *Manchester, Sheffield, and Lincolnshire Railway v. Doncaster Union, C. A.*, [1897] 1 Q. B. 117.

It may be taken that the weekly sums for maintenance of a lunatic due under an order of justices under the provisions of the Lunacy Act, 1890, are debts, claims, or demands due from the guardians upon whom the order is made. See *Reg. v. Stepney Union* (1874), L. R. 9 Q. B. 383; 43 L. J. M. C. 145; 30 L. T. (N.S.) 808; 38 J. P. 549; 12 Cox C. C. 331.

Where the claim is in respect of a private duty as opposed to a public duty, and as to computation of time in case of arbitration, see *Sharpington v. Fulham Guardians*, [1904] W. N. 146; [1904] 2 Ch. 449.

The House of Lords has an inherent jurisdiction independent of statute over costs in proceedings before itself, and the time for payment limited by that Act runs from the date of the certificate and not from the date of the order: see *West Ham v. St. Matthew, Bethnal Green*, [1896] A. C. 477.

Section 4 of the same Act provides that if any person claiming any debt or demand shall commence proceedings in any court of law or equity, or before any justice or other competent authority within the time hereinbefore limited, or within the time to which the [Local Government] Board may grant extension, and shall with due diligence prosecute such proceedings to judgment or other final settlement of the question, such judgment shall be satisfied by the guardians against whom, or against whose officer, the same may be brought, notwithstanding that such judgment may be recovered, or such final settlement arrived at, after the expiration of the period hereinbefore provided, and all proceedings taken by way of *mandamus* or otherwise for the enforcing of such judgment without delay shall be deemed to be within the operation of this section.

Where an application is made to the clerk of the peace to tax costs awarded at quarter sessions, it is not a commencement of proceedings, so as to take the debt out of the operation of section 1 of the 22 & 23 Vict. c. 49: *Midland Railway v. Edmonton Union, C. A.*, [1895] 1 Q. B. 357; H. L. (E.), [1895] A. C. 485.

As to due diligence, see *Rhodes v. Pateley Bridge Union* (1884), 51 L. T. (N.S.) 235; 48 J. P. 168.

Finally, section 5 of the same Act provides that where guardians shall be engaged in a suit, action, or proceedings in any court, they shall not be required by any rule of law or provision herein contained to pay the bill of costs of any solicitor or attorney retained by them for the purpose thereof until the final determination of such suit or proceeding, or until he shall cease to be so retained by or for them therein ; but the bill of costs of such solicitor or attorney shall be duly taxed and paid within the term of one year next after such final determination of the said suit, proceeding, or retainer, and not afterwards, unless the [Local Government] Board shall authorise an extension of time not exceeding six months : Provided that if the said solicitor or attorney take proceedings for the recovery of this bill within such time or the extension thereof, he shall in such case have the same right to be paid as in section 4 : Provided also that nothing herein contained shall prevent the guardians from paying money at any time on account of the suit or proceeding.

Section 314.

NOTE.

See also as to taxation of law bills of the guardians, section 39 of the Poor Law Amendment Act, 1844, 7 & 8 Vict. c. 101.

(3.) In case of any such action or proceeding no objection shall be taken to any default or want of form in any order for reception or maintenance, or in any certificate or adjudication under this Act, if such order or adjudication has not been appealed against, or if appealed against has been affirmed.

[No objection for want of form in orders, &c.]

PART XI.

PENALTIES, MISDEMEANORS, AND PROCEEDINGS.

Section 315. **315.** (1.) Every person who, except under the provisions of this Act, receives or detains a lunatic, or alleged lunatic, in an institution for lunatics, or for payment takes charge of, receives to board or lodge, or detains a lunatic or alleged lunatic in an unlicensed house, shall be guilty of a misdemeanor, and in the latter case shall also be liable to a penalty not exceeding fifty pounds.

Lunatics not
to be detained
except in
accordance
with Act.

Scope of Enactment.—The substitution of the words “for payment” in accordance with section 35 of the Lunacy Act, 1889, in the place of the old exception in favour of persons “deriving no profit from the charge,” as contained in section 90 of the Lunacy Act, 1845, removes all difficulty that might have arisen on the amount of the sums paid (see *Vollans’ Case* (1872), 28th Rep., p. 73), or as to advantages not of a pecuniary character, see Opinion of Law Officers, 24th Rep., App. N. “Receiving to board or lodge” must be read as distinct from “taking charge.” For instance, if a lunatic is received to board or lodge in the house of one person, and another takes charge of him, both are subject to the penalty: see Opinion of Law Officers, 24th Rep., App. N. The words “lunatic or alleged lunatic” are used for the purpose of ensuring the protection of the law, not only to lunatics in fact, but to all persons who, without being lunatics, are treated as lunatics. No one in particular need allege the person to be a lunatic. It is enough if the person is taken charge of, received, or detained as a lunatic: *Ibid.* It is not even necessary that the person should be a lunatic when first received if the person afterwards becomes a lunatic and is detained as such: *Reg. v. Wilkins* (1865), 19th Rep., p. 36 n.; 39th Rep., App. N.

A medical man received into his house, which was not licensed or registered for the reception of lunatics, a person brought there as an invalid, whose mind was quite imbecile, and who allowed himself to be kept in a state of revolting filth; but it did not appear that he was subject to any fits of frenzy or mental delusion. It was held that the medical man was properly convicted of receiving a lunatic to board and lodge in an unlicensed house: *Reg. v. Shaw* (1868), L. R. 1 C. C. R. 145; 37 L. J. M. C. 112; 18 L. T. (N.S.) 583; 16 W. R. 913; 11 Cox C. C. 109: see 22nd Rep., p. 58. It has often been held that ignorance of the law is no excuse.

See *Reg. v. Hawley* (1868), 22nd Rep., p. 63; *Reg. v. Davy* (1871), 25th Section 315. Rep., p. 78. See also cases reported in the 67th Report of the Commissioners in Lunacy, Part I., pp. 79—81.

NOTE.

Practice of the Commissioners.—With reference to this sub-section it may be useful to note the answer of the Home Secretary (Mr. Matthews) to a question asked by Mr. Corbett, in the House of Commons, on the 17th March, 1890, where he stated that “The Commissioners have no power to visit a house suspected of containing a lunatic in illegal charge, *i.e.*, of whom charge is taken for payment. When they receive information which leads them to suppose that a person is being detained as a lunatic illegally, they cause inquiry to be made through the police, by means of an order to visit issued by the Lord Chancellor or otherwise [see section 205, *ante*], and if evidence can be obtained establishing an infringement of the law, they prosecute the offender. The Commissioners have also published in the medical and other journals cautions against breaches of the Lunacy Laws.” See Hansard, Parl. Deb., 3rd series, vol. 342, p. 997; and 54 J. P. 185.

Evidence.—Upon a prosecution for unlawfully receiving a lunatic to board and lodge, after proof of the lunacy, and of the reception and detention of the lunatic by the prisoner, it was proved by the chief clerk to the Commissioners that no copies of the order or medical certificates, authorising the reception of the lunatic, were received from the prisoner by the Commissioners in Lunacy, and no entries were to be found in the books or registers of the Commissioners of the receipt of such copies, and that notice was given to the prisoner by the clerk to the solicitors for the prosecution to produce any such order or certificates, but he had not produced them. It was held that there was evidence to go to the jury that the lunatic was received and detained without the order and certificates required by the statute: *Reg. v. Harris* (1867), 10 Cox C. C. 541. See 21st Rep., p. 47.

(2.) Except under the provisions of this Act, it shall not be lawful for any person to receive or detain two or more lunatics in any house, unless the house is an institution for lunatics or a workhouse. [Detaining two or more lunatics in unlicensed house is illegal:]

The words “except under the provisions of this Act,” have reference to section 46, *ante*, p. 208.

(3.) Any person who receives or detains two or more lunatics in any house, except as aforesaid, shall be guilty of a misdemeanor. [and a misdemeanor.]

It is immaterial in the case of a prosecution under this sub-section whether the person receiving or detaining the lunatics received or took any profit thereby: *Budd v. Foulks*, 3 Campb. 464. And an honest belief that the persons so received or detained are not lunatics is no defence, if in fact such persons are of unsound mind: *Reg. v. Bishop*, 5 Q. B. D. 259; 49 L. J. M. C. 45; 42 L. T. (N.S.) 240; 28 W. R. 475; 44 J. P. 330; 14 Cox C. C. 404. See 35th Rep., p. 124. It will be observed that proceedings cannot be taken otherwise than by indictment for offences under this sub-section: see 21st Rep., p. 42; 22nd Rep., p. 63; 40th Rep., p. 73.

Section 316. **316.** The manager of any hospital or licensed house, and any person having charge of a single patient who omits to send to the Commissioners the prescribed documents and information upon the admission of a patient, or to make the prescribed entries, and give the prescribed notices upon the removal, discharge, or death of a patient, shall be guilty of a misdemeanor, and in the case of a single patient shall also be liable to a penalty not exceeding fifty pounds.

Neglect to
send notices
on admission
a misde-
meanor.

Prescribed Notices.—It will be observed that this section does not extend to omission to give notices of escape or recapture. See the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 23, *post*, p. 534. But see section 320, *post*, p. 431.

Rules of Commissioners.—As to the documents and information to be sent to the Commissioners on the reception of a patient, see the Rules of the Commissioners in Lunacy, 26th June, 1895, Rule 8, *post*, p. 527, and as to entries on admission, see Rules, 31st October, 1906, Rule 5, *post*, p. 557. As to the entries to be made and notices to be given on the removal, discharge, or death of a patient, see Rules, 31st October, 1906, Rule 6, *post*, p. 557.

Mis-state-
ments.

317. (1.) Any person who makes a wilful mis-statement of any material fact in any petition, statement of particulars, or reception order under this Act, shall be guilty of a misdemeanor.

[Wilful mis-
statement in
medical cer-
tificate or
report.]

(2.) Any person who makes a wilful mis-statement of any material fact in any medical or other certificate, or in any statement or report of bodily or mental condition under this Act, shall be guilty of a misdemeanor.

[No prosecu-
tion except
by order.]

(3.) A prosecution for a misdemeanor under this section shall not take place except by order of the Commissioners, or by the direction of the Attorney-General or the Director of Public Prosecutions.

Director of Public Prosecutions.—By section 2 of the Prosecution of Offences Act, 1884, 47 & 48 Vict. c. 58, it is provided that the person for the time being holding the office of solicitor for the affairs of Her Majesty's Treasury shall be Director of Public Prosecutions, and perform the duties, and have the powers of such director; and section 3 of the Treasury Solicitor Act, 1876, 39 & 40 Vict. c. 18, shall extend to authorise any assistant solicitor for the affairs of Her Majesty's Treasury to act on behalf of the said solicitor in his capacity of Director of Public Prosecutions.

False entries.

318. Any person who in any book, statement, or return, knowingly makes any false entry as to any matter as to which he is by this Act or any rules made under this Act required to make any entry, shall be guilty of a misdemeanor.

Rules.—As to the rules made under this Act, see section 338, *post*, p. 445, **Section 318.** and the Rules of the Commissioners in Lunacy, *post*, pp. 526 *seq.*

Prosecutions.—As to prosecutions, see sections 325 and 328, *post*. See also *Reg. v. Maddock* (1851), 5 Cox C. C. x.; 6th Rep., p. 19; *Reg. v. Seaton* (1881), 35th Rep., p. 125.

NOTE.

319. If the manager of an institution for lunatics, or the person having charge of a single patient, omits to send to the coroner notice of the death of a lunatic within the prescribed time, he shall be guilty of a misdemeanor. Notice to coroner of death.

320. Any person who makes default in sending to the Commissioners or any other person any return, report, extract, copy, statement, notice, plan, or document, or any information within his knowledge, or obtainable by him, when required so to do under this Act, or any other Act relating to lunacy, or any rules made under this Act, or in complying with the said Acts or rules, shall for each day or part of a day during which the default continues be liable to a penalty not exceeding ten pounds, unless a penalty is expressly imposed by this or any other Act for such default: Provided that all or any part of the cumulative penalties may be remitted by the court in any case in which it is made to appear to the satisfaction of the court that the original default or its continuance during any period of time arose from mere accident or oversight, and not from wilful or culpable neglect on the part of the person sued. Penalty for non-compliance with the Act and rules.

321. (1.) Any person who obstructs any Commissioner or Chancery or other visitor, in the exercise of the powers conferred by this or any other Act, shall for each offence be liable to a penalty not exceeding fifty pounds, and shall also be guilty of a misdemeanor. Obstruction.

Powers conferred by other Acts.—As to the powers conferred by other Acts, see section 2 (iv.) of the Lunacy (Vacating of Seats) Act, 1886, 49 Vict. c. 16, *post*, Appendix I.; sections 14 and 15 of the Criminal Lunatic Asylums Act, 1860, 23 & 24 Vict. c. 75; and section 2 of the Criminal Lunatics Act, 1884, 47 & 48 Vict. c. 64, *post*, pp. 708, 709, 720.

Prosecutions.—As to prosecutions for misdemeanor, see sections 325 and 328, *post*, and see *Urry's Case* (1886), 40th Rep., p. 74.

(2.) Any person who wilfully obstructs any other person authorised under this Act by an order in writing under the hand of the Lord Chancellor or a Secretary of State to visit and examine any lunatic or supposed lunatic, or to inspect or inquire into the state of any institution for lunatics, gaol, or place wherein any lunatic or person represented to be lunatic [Obstructing specially authorised visitor.]

Section 321. is confined or alleged to be confined, in the execution of such order, and any person who wilfully obstructs any person authorised under this Act by any order of the Commissioners to make any visit and examination or inquiry in the execution of such order, shall (without prejudice to any proceedings, and in addition to any punishment to which such person obstructing the execution of such order would otherwise be subject) be liable for every such offence to a penalty not exceeding twenty pounds.

Orders referred to.—As to the orders of the Lord Chancellor or a Secretary of State, referred to in this section, see section 205, *ante*, p. 334.

As to the orders of the Commissioners, referred to in this section, see section 204, *ante*, p. 333.

Recovery of Penalties.—As to proceedings for the recovery of penalties, see section 326, *post*; and see *Reg. v. Jones* (1893), 48th Rep., p. 104.

Ill-treatment. 322. If any manager, officer, nurse, attendant, servant, or other person employed in an institution for lunatics, or any person having charge of a lunatic, whether by reason of any contract or of any tie of relationship or marriage or otherwise, ill-treats or wilfully neglects a patient, he shall be guilty of a misdemeanor, and, on conviction, on indictment, shall be liable to fine or imprisonment, or to both fine and imprisonment, at the discretion of the court, or be liable on summary conviction for every offence to a penalty not exceeding twenty pounds, nor less than two pounds.

See 67th Report of the Commissioners in Lunacy, Part I., pp. 81, 82, for recent reports of prosecutions.

Criminal Lunatics.—Similar provisions as to ill-treatment of persons confined in a criminal lunatic asylum, except that hard labour may be added to the imprisonment on conviction on indictment, are contained in section 13 of the Criminal Lunatic Asylums Act, 1860, *post*, p. 708.

Object of Enactment.—In 1867, the Commissioners in Lunacy stated in a Circular addressed to visitors of asylums, governors of lunatic hospitals, and proprietors of licensed houses, that they were of opinion that dismissal only of the offenders was insufficient to prove an effectual check to the ill-treatment of patients by attendants, and that it was expedient in all cases to take proceedings under the enactments corresponding to this section where any reasonable expectation of proving the offence existed. And they added that it was almost unnecessary to observe that after dismissal it was a difficult, if not impossible, task to follow up the offence by prosecution, inasmuch as the accused were then frequently not to be found: 22nd Rep., p. 64. See also 26th Rep., p. 67.

The Select Committee of 1878 reported (p. v.) that “the risk of mal-

treatment by attendants requires constant watching. When it is considered from what class attendants are necessarily taken how difficult it must be for them to keep their temper under the provoking habits of the unfortunate patients, which have made them insupportable to their nearest relations, and how cautiously any statements of lunatics themselves about their own treatment must be received, it will appear that the utmost vigilance must be exercised to prevent serious abuses of this nature." The Commissioners in Lunacy, in their 33rd Annual Report, at p. 136, said, with reference to this passage in the Report of the Select Committee, that the committee repeated, on the subject of the risk of maltreatment by attendants, observations constantly made by the Commissioners themselves. (a)

Section 322.

NOTE.

Persons having Charge.—With regard to ill-treatment by persons having charge of a lunatic, it will be observed that the present section is so worded as to confirm the cases of *Buchanan v. Hardy* (1887), 18 Q. B. D. 486; 56 L. J. M. C. 42; 35 W. R. 453; 51 J. P. 47; and *Reg. v. Porter* (1864), L. & C. 394; 33 L. J. M. C. 126; 10 Jur. (N.S.) 547, and to overrule the case of *Reg. v. Rundle* (1854), 1 Dear C. C. 482; 24 L. J. M. C. 129; 1 Jur. (N.S.) 430; 6 Cox C. C. 549; 19 J. P. 293. In the first-mentioned case it was held that the parents of a lunatic residing with them under their care were "persons having the care or charge of the lunatic," within the meaning of section 34 of the Lunacy Act, 1853. In the second, *Reg. v. Porter*, it was held that a person taking on himself the charge of a lunatic brother was a person having the care or charge of a lunatic under the same section. But in the third case above mentioned, *Reg. v. Rundle*, it had been held that a husband was not, in respect of his lunatic wife living with him, a person having the care or charge of a lunatic within the meaning of the same enactment, so as to be punishable for ill-treating her. This case, it will be seen, is no longer law.

An indictment under this section against a person having the care or charge of a lunatic should contain a positive averment that the lunatic was under the care or charge of the person indicted, and that the acts or defaults of such person occasioned actual injury to the lunatic, and it must be proved accordingly that the lunatic was under the care or charge of the person indicted, and that whilst under such care or charge actual injury to the lunatic was occasioned by the conduct of such person: *Reg. v. Pelham* (1846), 8 Q. B. 959. See also *Rex v. Duke*, at p. 63 of the 62nd Report of the Commissioners in Lunacy. For recent prosecutions see 67th Report.

In the case of *Reg. v. Thompson* (1866), 20th Rep., p. 33, MELLOR, J., expressed an opinion that pauper inmates of workhouses acting as unpaid keepers were not persons taking part in the care and custody of lunatics within the meaning of section 9 of the Lunacy Act, 1853, 16 & 17 Vict. c. 96, but subsequently, upon a case submitted to them by the Commissioners in Lunacy, the Law Officers were of the contrary opinion.

(a) The present system of educating the staff of asylums has resulted in a higher standard of efficiency, and valid complaints of assaults by attendants are comparatively of rare occurrence.

Section 322. *Evidence of Lunatics.*—The evidence of a lunatic is admissible if he has sufficient understanding to apprehend the obligation of an oath or affirmation, and to give a correct account of the matters he has seen or heard with reference to the charge. The question whether the lunatic has sufficient understanding for the purpose is to be determined by the judge at the trial, upon examination of the lunatic himself, and of any competent witnesses who can speak to the nature and extent of his insanity: *Reg. v. Samuel Hill* (1851), 2 Den. C. C. 254; T. & M. 582; 20 L. J. M. C. 222; 5 Cox C. C. 259. See also as to this case the 6th Rep., pp. 17—19.

NOTE.

A prisoner totally deaf who could neither read nor write, stood mute on arraignment, and was found to be incapable of pleading. It was held that the finding amounted to a “finding that the prisoner was insane under the meaning of the Criminal Lunatics Act, 1800”: *Rex v. The Governor of Stafford Prison, Ex parte Emery*, [1909] 2 K. B. 81.

For a discussion on the evidence of lunatics see “Anomalies and Shortcomings of Lunacy Law,” *Law Quarterly Review*, April, 1913.

A *habeas corpus ad testificandum* may be obtained to bring up the body of a lunatic confined in an institution for lunatics to give evidence in a cause, upon an affidavit showing that he is not dangerous, and is in a fit state to be brought up: *Fennell v. Tait*, 1 C. M. & R. 584; 5 Tyr. 218; 3 D. P. C. 161.

The *jurat* of an affidavit sworn by a lunatic, confined in an institution for lunatics, should state the fact that it was so sworn, and the admissibility of it in evidence will depend upon the result of previous inquiry into his mental state and condition: *Spittle v. Walton* (1871), L. R. 11 Eq. 420; 40 L. J. Ch. 368; 24 L. T. (N.S.) 18; 19 W. R. 405.

Punishment.—In the case of a first offence under this section, the penalty on summary conviction may be reduced under section 4 of the Summary Jurisdiction Act, 1879, 42 & 43 Vict. c. 49, below the minimum prescribed by this section. See section 326, *post*, p. 436.

Penalties for permitting escape and for rescue.

323. If any manager, officer, or servant of an institution for lunatics wilfully permits, or assists, or connives at the escape or attempted escape of a patient, or secretes a patient, he shall for every offence be liable to a penalty not exceeding twenty pounds nor less than two pounds.

It will be observed that this section does not specifically mention a nurse or attendant, like sections 322 and 324.

In the case of a first offence the penalty may be reduced under section 4 of the Summary Jurisdiction Act, 1879, 42 & 43 Vict. c. 49, below the minimum prescribed by this section. See section 326, *post*, p. 436.

Criminal Lunatics.—As to permitting escapes from a criminal lunatic asylum, see section 12 of the Criminal Lunatic Asylums Act, 1860, *post*, p. 707.

Abuse of female lunatic.

324. If any manager, officer, nurse, attendant, or other person employed in any institution for lunatics (including an asylum for criminal lunatics), or workhouse, or any person

having the care or charge of any single patient, or any attendant of any single patient, carnally knows or attempts to have carnal knowledge of any female under care or treatment as a lunatic in the institution or workhouse, or as a single patient, he shall be guilty of a misdemeanor, and, on conviction on indictment, shall be liable to be imprisoned with or without hard labour for any term not exceeding two years; and no consent or alleged consent of such female thereto shall be any defence to an indictment or prosecution for such offence. Section 324.

This section is a re-enactment of section 82 of the Lunacy Act, 1889, 52 & 53 Vict. c. 41, which was passed in order to carry out the recommendation made by the Commissioners in Lunacy in their 33rd Report, at p. 134, that the provisions of the law then in force against ill-using and abusing patients should extend to make the carnal knowledge of a female patient by any officer, attendant, servant, or artisan employed in or about an asylum, hospital, or licensed house an indictable offence. See also 29th Rep., p. 34; 35th Rep., p. 97; 37th Rep., p. 108; 39th Rep., p. 108. See also section 5 (2) of the Criminal Law Amendment Act, 1885, and section 56 of the Mental Deficiency Act, 1913, *post*, p. 813.

325. (1.) Except as by this Act otherwise provided, proceedings against any person for offences against this Act may be taken— By whom proceedings to be taken.

- (a.) By the secretary of the Commissioners upon their order for any offence;
- (b.) By the clerk of the visitors of any licensed house for an offence committed within their jurisdiction;
- (c.) By the clerk of the visiting committee of an asylum for any offence by any person employed therein;

and such proceedings shall not abate by the death or removal of the prosecuting secretary or clerk, but the same may be continued by his successor, and in any such proceedings the prosecuting secretary or clerk shall be competent to be a witness.

Government Prosecutions.—The words “except as by this Act otherwise provided” have reference to section 328, *post*, p. 437.

(2.) Except as by this Act otherwise provided, it shall not be lawful to take such proceedings except by order of the Commissioners, or of visitors having jurisdiction in the place where the offence was committed, or with the consent of the Attorney-General or Solicitor-General. [No proceedings except by order.]

Prosecutions for Mis-statements.—The words “except as by this Act otherwise provided” have reference to section 317 (3), *ante*, p. 316.

Section 325. *Prosecutions for Perjury.*—As to prosecutions for perjury, committed in proceedings for offences against this Act, see *Reg. v. Burnby* (1843), Q. B. 348.

NOTE.

Expenses.—Expenses incurred by or under the order of any visitors of licensed houses in proceedings under this Act are payable out of the county or borough fund, see section 182, *ante*, p. 318.

Recovery and application of penalties.

326. All penalties enforceable under this Act shall be recovered summarily according to the provisions of the Summary Jurisdiction Acts, and shall be paid—

- (a.) When recovered by the secretary of the Commissioners, to such secretary ;
- (b.) When recovered by the clerk of the visitors of a licensed house, to the clerk of the peace for the county or borough, to be applied in the same way as money received for licences granted by the justices of the county or borough ;
- (c.) When recovered by a clerk of the visiting committee of an asylum, to the treasurer of the asylum for the purposes thereof ;
- (d.) In all other cases to the treasurer of the county or borough for which the convicting justices acted.

This section provides for the summary recovery of penalties in accordance with section 5 of the Summary Jurisdiction Act, 1884, 47 & 48 Vict. c. 43, as to which see sections 19 and 21 of the Summary Jurisdiction Act, 1848, 11 & 12 Vict. c. 43, as amended by section 21 of the Summary Jurisdiction Act, 1879, 42 & 43 Vict. c. 49.

Summary Jurisdiction Acts.—By section 13 (10) (7) (6) of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, the expression “the Summary Jurisdiction Acts,” as here used, means the Summary Jurisdiction Act, 1848, 11 & 12 Vict. c. 43 (commonly called Jervis’s Act), and the Summary Jurisdiction Act, 1879, 42 & 43 Vict. c. 49, and any Act, past or future, amending those Acts or either of them.

Appeals.

327. Any person aggrieved by an order of justices under this Act, other than orders adjudicating as to the settlement of a lunatic pauper and providing for his maintenance, may appeal to a court of quarter sessions, subject to the conditions and regulations of the Summary Jurisdiction Acts.

Summary Jurisdiction Acts.—As to the meaning of the expression “the Summary Jurisdiction Acts,” see notes to preceding section. As to the conditions and regulations of those Acts relating to appeals, see section 31 of the Summary Jurisdiction Act, 1879, 42 & 43 Vict. c. 49.

328. A Secretary of State on the report of the Commissioners or visitors of any institution for lunatics may direct the Attorney-General to prosecute on the part of the Crown any person alleged to have committed a misdemeanor under this Act. Section 328.
Secretary of State may direct prosecution.

329. (1.) Where any person is proceeded against under this Act on a charge of omitting to transmit or send any copy, list, notice, statement, report or other document required to be transmitted or sent by such person, the burden of proof that the same was transmitted or sent within the time required shall lie upon such person; but if he proves by the testimony of one witness upon oath that the copy, list, notice, statement, report or document in respect of which the proceeding is taken was properly addressed and put into the post in due time, or (in case of documents required to be sent to the Commissioners or a clerk of the peace or a clerk to guardians) left at the office of the Commissioners or of the clerk of the peace or clerk to guardians, such proof shall be a bar to all further proceedings in respect of such charge. Evidence upon prosecution.

Oath.—By section 3 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, it is enacted (amongst other things) that in every Act passed after the year 1850, whether before or after the commencement of this Act, unless the contrary intention appears, the expression “oath” and “affidavit” shall, in the case of persons for the time being allowed by law to affirm or declare instead of swearing, include affirmation and declaration, and the expression “swear” shall in like case include affirm and declare.

As to when affirmation may be made instead of oath, see the Oaths Act, 1888, 51 & 52 Vict. c. 46.

Sending by Post.—As to the posting of documents, see section 26 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, cited in the notes to section 6 (1), *ante*, p. 159.

(2.) In proceedings under this Act, where a question arises whether a house is or is not a licensed house or registered as a hospital, it shall be presumed not to be so licensed or registered unless the licence or certificate of registration is produced, or sufficient evidence is given that a licence or certificate is in force. [Evidence of licence or registration.]

330. (1.) A person who before the passing of this Act has signed or carried out or done any act with a view to sign or carry out an order purporting to be a reception order, or a medical certificate that a person is of unsound mind, and a person who after the passing of this Act presents a petition for Protection to persons putting Act in force.

Section 330. any such order, or signs or carries out or does any act with a view to sign or carry out an order purporting to be a reception order, or any report or certificate purporting to be a report or certificate under this Act, or does anything in pursuance of this Act, shall not be liable to any civil or criminal proceedings whether on the ground of want of jurisdiction or on any other ground if such person has acted in good faith and with reasonable care.

There must be a lack of good faith and reasonable care to substantiate an action under this section, even although the Act has been misconstrued and acts committed for which there was no jurisdiction: *Shackleton v. Swift*, C. A., [1913] 2 K. B. 304; 82 L. J. (K.B.) 607; 11 L. G. R. 462; 108 L. T. 400; [1913] W. N. 60; 77 J. P. 241.

As to reasonable care, see *Harward v. Hackney Union*, 14 T. L. R. 306; *Morris v. Atkins*, 18 T. L. R. 628; and *Welsh v. Duckworth*, 18 T. L. R. 633. See also *Hall v. Semple*, *infra*.

It was held in an unreported case under that enactment that it extended to protect a medical practitioner who, acting in good faith and with reasonable care, examined an alleged lunatic with a view to certifying as to his mental condition for the purposes of a reception order, but on such examination did not certify that the alleged lunatic was of unsound mind.

Justification at Common Law.—At common law any man may justify an assault when it may restrain the fury of a lunatic and prevent mischief: *Brookshaw v. Hopkins* (1773), Lofft. 235, 240. But it was held by Lord TENTERDEN, C.J., that a medical man could not at common law justify the sending of men with straps and a strait-waistcoat to take charge of and confine an individual whom he had never seen, merely upon statements made by relations, unless those statements were such as to satisfy him that those steps were necessary to prevent the party from doing some immediate injury either to himself or to others: *Anderdon v. Burrows*, 4 C. & P. 210. In *Scott v. Wakem* (1862), 3 F. & F. 328, BRAMWELL, B., held that at common law a party would be justified in putting restraint upon a dangerous lunatic, not merely at the moment of the original danger, but until there was reasonable ground to believe that the danger was over. See also *Symm v. Fraser* (1862), 3 F. & F. 859.

Reception Orders previous to Present Act.—It will be observed that the protection given by this section extends to a person who has signed a reception order before the passing of this Act, or who after the passing of this Act presents a petition for any such order. This enactment was passed with a view to the case of *Fletcher v. Fletcher* (1859), 1 E. & E. 420; 5 Jur. (N.S.) 678; 28 L. J. Q. B. 124, in which it had been held that the protection given by section 99 of the Lunacy Act, 1845, 8 & 9 Vict. c. 100, did not extend to the person signing an order for the reception of a private patient, but that the liability of such person in an action for false imprisonment remained as at common law, and that, in order to protect himself, he must be able to show that the person imprisoned on the order was actually insane at the time.

Things done in Pursuance of this Act.—With regard to the expression “anything done in pursuance of this Act,” it may be observed that it was held with regard to a similar expression in section 105 of the Lunacy Act, 8 & 9 Vict. c. 100, that a duly qualified medical man was not liable in trespass merely for signing a certificate in support of an order for the reception of a private patient, but that if he signed such certificate without due care and making due inquiries, if not satisfied on his own personal examination, he would be liable for the consequences, although he had acted *bonâ fide*, honestly believing in the truth of his certificate, and that he was acting in pursuance of and under the authority of the Act: *Hall v. Semple* (1862), 3 F. & F. 336. See 17th Rep., p. 30. See also cases cited to this section, *supra*.

Section 330

NOTE.

(2.) If any proceedings are taken against any person for signing or carrying out or doing any act with a view to sign or carry out any such order, report, or certificate, or presenting any such petition as in the preceding sub-section mentioned, or doing anything in pursuance of this Act, such proceedings may, upon summary application to the High Court or a Judge thereof, be stayed upon such terms as to costs and otherwise as the Court or Judge may think fit, if the Court or Judge is satisfied that there is no reasonable ground for alleging want of good faith or reasonable care.

[Stay of proceedings on summary application.]

See *Williams v. Beaumont* (1894), 10 T. L. R. 489, 543. See also notes and cases to preceding sub-section.

331. [*Actions by persons detained as lunatics.*]

This section has now been entirely repealed by section 2 and the schedule of the Public Authorities Protection Act, 1893, 56 & 57 Vict. c. 61, and is replaced by section 1 of the same Act.

By section 1 of the Public Authorities Protection Act, 1893, 56 & 57 Vict. c. 61, where, after the commencement of this Act (1st January, 1894), any action, prosecution, or other proceeding is commenced in the United Kingdom against any person for any act done in pursuance, or execution, or intended execution of any Act of Parliament, or of any public duty or authority, or in respect of any alleged neglect or default in the execution of any such Act, duty, or authority, the following provisions shall have effect:—

- (a.) The action, prosecution, or proceeding shall not lie or be instituted unless it is commenced within six months next after the act, neglect or default complained of, or in case of a continuance of injury or damage, within six months next after the ceasing thereof:
- (b.) Wherever in any such action a judgment is obtained by the defendant, it shall carry costs to be taxed as between solicitor and client:

A defendant who succeeds in an action within this Act so that he

Section 331. substantially obtains judgment, is entitled to costs to be taxed as between solicitor and client, although the judgment as drawn merely directs payment of costs without directing how costs are to be taxed: *North Metropolitan Tramways v. London County Council*, [1898] 2 Ch. 145.

NOTE.

(c.) Where the proceeding is an action for damages, tender of amends before the action was commenced may, in lieu of, or in addition to any other plea, be pleaded. If the action was commenced after the tender, or is proceeded with after payment into court of any money in satisfaction of the plaintiff's claim, and the plaintiff does not recover more than the sum tendered or paid, he shall not recover any costs incurred after the tender or payment, and the defendant shall be entitled to costs, to be taxed as between solicitor and client, as from the time of the tender or payment; but this provision shall not affect costs on any injunction in the action:

(d.) If, in the opinion of the court, the plaintiff has not given the defendant a sufficient opportunity of tendering amends before the commencement of the proceeding, the court may award to the defendant costs to be taxed as between solicitor and client.

This section shall not affect any proceedings by any department of the Government against any local authority or officer of a local authority.

Commissioners and visitors may summon witnesses.

332. (1.) The Commissioners, or any two of them, and also the visitors of any licensed house, or any two of them, may, as they see occasion, require, by summons, under the common seal of the Commission, if by the Commissioners, and if by two only of the Commissioners or by two visitors, then under the hands and seals of such two Commissioners or two visitors, as the case may be, any person to appear before them to testify on oath touching any matters respecting which such Commissioners and visitors respectively are by this Act authorised to inquire (which oath such Commissioners or visitors are hereby empowered to administer).

Form 22.

See Order in Council (cited under section 150, *ante*, p. 301) as to one Commissioner now being empowered to do what previously had to be carried out by two Commissioners unless the Act expressly provides that one shall be a legal Commissioner and the other a medical Commissioner.

Inquiries by Commissioners and Visitors.—As to inquiries by the Commissioners, see particularly section 50 (2), *ante*, p. 211, and by Commissioners and visitors (section 194, *ante*, p. 326).

[Penalty for disobeying summons.]

(2.) Every person who does not appear pursuant to the summons, or does not assign some reasonable excuse for not appearing, or who appears and refuses to be sworn or examined, shall, on being convicted thereof before a court of summary jurisdiction, for every such neglect or refusal be liable to a penalty not exceeding fifty pounds.

Court of Summary Jurisdiction.—By section 13 (11) of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, it is enacted that in this Act and in every other Act, whether passed before or after the commencement of this Act, unless the contrary intention appears, the expression “court of summary jurisdiction” shall mean any justice or justices of the peace, or other magistrate by whatever name called to whom jurisdiction is given by, or who is authorised to act under, the Summary Jurisdiction Acts, whether in England, Wales [or Ireland], and whether acting under the Summary Jurisdiction Acts, or any of them, or under any other Act, or by virtue of his commission or under the common law. See *Reg. v. Glamorganshire JJ.*, [1892] 1 Q. B. 621 ; 61 L. J. M. C. 169 ; 66 L. T. 444 ; 40 W. R. 436 ; 56 J. P. 437.

Section 332.
NOTE.

(3.) Any two or more Commissioners or visitors may, if they think fit, examine on oath any person appearing before them as a witness, without having been summoned. [Examination on oath without summons.]

See note to sub-section 1.

(4.) Any Commissioners or visitors who summon a person to appear and give evidence, may direct the secretary of the Commissioners or the clerk of such visitors, as the case may be, to pay to such person all reasonable expenses of his appearance and attendance, the same to be considered as expenses incurred in the execution of this Act, and to be taken into account and paid accordingly. [Expenses of witnesses.]

PART XII.

MISCELLANEOUS PROVISIONS, DEFINITIONS, REPEAL.

Section 333.

Indemnity
to Bank and
others.

333. This Act, and every order purporting to be made under this Act, shall be a full indemnity and discharge to the Bank and every other company and society and their respective officers and servants, and all other persons respectively, for all acts and things done or permitted to be done pursuant thereto, or pursuant to the Rules under this Act, so far as relates to any property in which a lunatic is interested either in his own right, or as trustee or mortgagee, and it shall not be necessary to inquire into the propriety of any order purporting to be made under this Act relating to any such property or the jurisdiction to make the same.

Rules under this Act. As to the Rules under this Act, see section 338, *post*, p. 445.

Special Protection on Payments for Maintenance.—See also as to special protection in case of justices' orders for the application of the estate of a lunatic for his maintenance and incidental expenses, section 299 (2), *ante*, p. 412.

Meaning of
word commis-
sion in other
Acts ex-
tended.

334. Where in any Act of Parliament, order or rule of court, or instrument, reference is made to a commission of lunacy, or the inquisition thereon, the general commission and the inquisition, or certificate operating as an inquisition, and the issue and verdict thereon respectively in this Act mentioned, shall be deemed to be included in the reference.

General Commission.—As to the general commission here referred to, see section 112, *ante*, p. 258.

Inquisition.—As to the inquisition thereon, see sections 90—100, *ante*, pp. 242—246.

Certificate.—As to the masters' certificate operating as an inquisition, see section 95, *ante*, p. 244.

Issue and Verdict.—As to the issue and verdict, see section 94, *ante*, p. 243.

Pension of
lunatic pay-
able by
public
department.

335. When any sum in respect of pay, pension, superannuation, or other allowance, or annuity under the control or management of any public department, is payable to any

person, in respect either of service as a civil servant or of **Section 335.**
 military or naval service or of provision for a widow or child of
 a person employed in civil, military, or naval service, and the **Forms 16, 17.**
 person to whom the sum is payable is certified by a justice or
 minister of religion, and by a medical practitioner, to be unable
 by reason of mental disability to manage his or her affairs, the
 public department may pay so much of the said sum as the
 department may think fit to the institution or person having
 the care of the disabled person, and may pay the surplus, if
 any, or such part thereof, as the department may think fit, for
 or towards the maintenance and benefit of the wife or husband
 and relatives of the disabled person, and the department shall
 be discharged from all liability in respect of any sums so paid.

See 8 Edw. 7, c. 40, s. 3 (1) (b) as to provisions under Old Age Pensions Act, 1908.

Forms.—Forms of Certificates of Disability, Forms 16 and 17 in the Second Schedule, *post*, p. 466. As to the use of these Forms, see section 339, *post*, p. 447.

Civil Servants.—This Act contains no definition of the term “civil servant,” and the term as used in this section is not considered to be limited by the definition contained in section 12 of the Superannuation Act, 1887, 50 & 51 Vict. c. 67.

Savings Bank Annuities.—By section 9 of the Government Annuities Act, 1882, 45 & 46 Vict. c. 51, it is enacted that where any person entitled to a savings bank annuity or insurance is insane or otherwise incapacitated to act, then (subject to the conditions prescribed by the regulations under section 16 of the Government Annuities Act, 1864, as amended by this Act) payment of such annuity or insurance may be made at such times and to such persons as may seem proper, and the receipt of the said persons shall be a good discharge for the same.

Police Pensions.—With respect to the pensions allowances and gratuities of police constables in England, by section 7 (2) of the Police Act, 1890, 53 & 54 Vict. c. 45, where any parochial relief is given to a pensioner, or to any one whom he is liable to maintain, the police authority may pay the whole or any part of the grant to the guardians or other authority giving the relief, and the same, when so paid, may be applied in re-payment of any sums expended in such relief, and subject thereto, shall be paid or applied by the guardians or other authority to or for the benefit of the pensioner. And by sub-section (3), if the pensioner neglects to maintain any person whom he is liable to maintain, the police authority may in their discretion, pay or apply the whole or any part of the grant to or for the benefit of that person. And by sub-section (4), if the pensioner appears to the police authority to be insane or otherwise incapacitated to act, the police authority may pay so much of the grant as the police authority think fit to the institution or person having the care of the pensioner. Similar provisions as to police pensions in Scotland are contained in section 7 of the Police (Scotland) Act, 1890, 53 & 54 Vict. c. 67.

Section 336. **336.** In the case of orders made before the commencement of this Act for the reception of private patients, the person who signed the reception order shall have all the powers and be subject to the obligations by this Act conferred or imposed upon the petitioner for a reception order, and the provisions of this Act relating to persons upon whose petition a reception order was made shall apply in the case of a person who before the commencement of this Act has signed an order for the reception of a private patient, as if the order had been made after the commencement of this Act upon a petition presented by him.

Reception
orders before
Act.

Powers and Duties conferred on Person signing old Order.—As to visiting the patient once at least in every six months, see section 5 (3), *ante*, p. 158. As to appointment of a substitute for the person signing the order, see section 48, *ante*, p. 209. As to approval of absence on trial or for health, see section 55 (5), *ante*. As to ordering removal, see section 58, *ante*, p. 220. As to ordering discharge, see section 72, *ante*, p. 227. As to notice of discharge by order of the Commissioners, see section 76 (1) (a), *ante*, p. 231. As to notice of discharge from licensed house by order of the visitors, see section 78 (4), *ante*, p. 232. As to notice of recovery, see section 83, *ante*, p. 234.

Power to
amalgamate
the lunacy
departments.

337. (1.) The Lord Chancellor may, if it seems expedient to him so to do, by order under his hand, amalgamate the office of the Masters and their staff, and the office of the Chancery visitors and their staff, and may amalgamate such offices, or either of them, with the office of the Commissioners, and may give such directions as he may think fit for the reconstitution of the Commissioners, and for the exercise and performance of the powers and duties of the Commissioners, and of the officers of and staff amalgamated respectively under any order under this section.

The Select Committee of 1878 in their Report, pp. v., vi., said : “ There appears to be a general concurrence of opinion that the best security against the undue detention of patients consists in personal examination such as that by the Chancery visitors. There seems no valid reason why the possession of property should make any difference in the personal treatment of lunatics, or in the supervision exercised over them. Either the Chancery lunatics, who number less than a thousand, have too much care bestowed upon them, or the others, who exceed sixty-five thousand, have far too little. The property might still remain under the care of the Masters in whatever way may be considered best ; but it seems reasonable that all lunatics should be treated on the same system as far as admission, detention, supervision, and release are concerned. And though it may be true that the lunacy of the majority of patients in an asylum is self-evident, yet it seems physically impossible that, with the present strength of the Lunacy Commissioners, minute supervision of those who require it can be efficiently

exercised. It may be that by some amalgamation of the two departments waste of power in visiting might be obviated, and the delay and expense frequently attending the discharge of Chancery lunatics be avoided, and stricter supervision exercised over single patients, who are said to require it more than others, and yet are visited only once a year by the Commissioners, and for visiting whom there is no statutory obligation.”

Section 337.

NOTE.

Since the date of this Report the number of Chancery patients has steadily decreased.

(2.) In the event of any such amalgamation, the Lord Chancellor may, with the concurrence of the Treasury, fix the qualifications and salaries of the members of the amalgamated office and of the staff attached thereto, and may, with such concurrence, increase or diminish the number of such members and staff.

[Officers and salaries after amalgamation.]

(3.) An order under this section shall not be made so as to prejudice the rights of the Masters, Visitors, and Commissioners respectively holding office at the passing of this Act.

[Saving for rights of existing officers.]

(4.) The Lord Chancellor may by order direct that such portion as he may consider reasonable of the expenses incurred in carrying any such amalgamation into effect, including the cost of providing office accommodation, shall be paid out of the percentage charged on the incomes of lunatics.

[Expenses of amalgamation.]

338. (1.) It shall be lawful for the Commissioners, with the approval of the Lord Chancellor, by rules, to prescribe the books to be kept in institutions for lunatics and houses for single patients, and the entries to be made therein, and the returns, reports, extracts, copies, statements, notices, plans, documents, and information to be sent to the Commissioners or any authority or person, and the persons by whom, the times within which, and the manner in which, such entries, returns, reports, extracts, copies, statements, notices, plans, documents, and information are to be made and sent ; and also by rules to prescribe forms for the purposes aforesaid in addition to or in substitution for any forms now in use.

Power to make rules.

Construction of Rules.—By section 31 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, it is enacted that where any Act, whether passed before or after the commencement of this Act, confers power to make, grant, or issue any instrument—that is to say, any Order in Council, order, warrant, scheme, letters patent, rules, regulations, or byelaws, expressions used in the instrument, if it is made after the commencement of this Act, shall, unless the contrary intention appears, have the same respective meanings as in the Act conferring the power.

Section 338. (2.) Subject to the preceding sub-section, the Lord Chancellor may make rules [*in lunacy*] for carrying this or any other Act relating to lunacy into effect, and also for regulating costs in relation thereto.

[Rules by
Lord
Chancellor.]

The words in brackets were repealed by section 29 and the schedule of the Lunacy Act, 1891, *post*, and the power to make rules under this sub-section was extended by section 27 (2) of that Act as therein mentioned, *post*, p. 487.

[Applications
in lunacy by
petition.]

(3.) Where by any Act already passed or hereafter to be passed any application in lunacy is directed or authorised to be made by petition, or in any other specified manner, the Lord Chancellor may by rule direct in what manner the application is to be made.

[Rules for
relief of
county court
judges and
magistrates.]

(4.) The Lord Chancellor and a Secretary of State respectively may by rules provide for preventing interference or delay in the exercise of the ordinary jurisdiction of the judges of county courts and magistrates respectively by the transfer of petitions and notices or otherwise as such rules may direct.

[Saving for
existing
rules.]

(5.) Subject to any rules made under this section, the existing rules shall, so far as applicable, continue in force.

[Rules to be
laid before
Parliament.]

(6.) All rules made under the provisions of this section shall be laid before Parliament within three weeks after they are made if Parliament is then sitting, and, if Parliament is not then sitting, within three weeks, after the beginning of the then next session of Parliament, and shall be judicially noticed, and shall have effect as if enacted by this Act.

See further on this subject the Rules Publication Act, 1893, 56 & 57 Vict. c. 66.

[Date of
commence-
ment of
rules.]

(7.) A rule under the provisions of this section shall not come into operation until the expiration of one month after the same has been made and issued.

Rules made between Passing and Commencement of Act.—By section 37 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, it is enacted that where an Act passed after the commencement of this Act is not to come into operation immediately on the passing thereof, and confers any power to make any appointment, to make, grant, or issue any instrument—that is to say, any Order in Council, order, warrant, scheme, letters patent, rules, regulations, or bye-laws, to give notices, to prescribe forms, or to do any other thing for the purposes of the Act, that power may, unless the contrary intention appears, be exercised at any time after the passing of the Act, so far as may be necessary or expedient for the purpose of bringing the Act into operation at the date of the commencement thereof, subject to this restriction, that any instrument made under the power shall not,

unless the contrary intention appears in the Act, or the contrary is necessary for bringing the Act into operation, come into operation until the Act comes into operation. Section 338.
NOTE.

339. Subject to rules made under this Act, the forms in the Forms. Second Schedule may be used, wherever applicable, with such modifications as circumstances may require, and if used, shall be deemed to be sufficient.

340. (1.) Save as in this Act otherwise expressly provided, this Act shall not extend to criminal lunatics. Savings as
to criminal
lunatics, &c.

Express Provisions as to Criminal Lunatics.—As to the saving referred to, see section 116 (1) (f), ante, p. 262, and sections 320, 321, and 324, ante, pp. 431, 434.

See also section 10 (3), (4) of the Criminal Lunatics Act, 1884, post, p. 731. 49 & 50 Vict.
c. 25.

(2.) This Act shall not affect the provisions of the Idiots Act, 1886.

The Idiots Act, 1886, was repealed by the Mental Deficiency Act, 1913.

341. In this Act, if not inconsistent with the context— Definitions.

“Asylum” means an asylum for lunatics provided by a county or borough, or by a union of counties or boroughs :

Lancashire.—As to the application of this definition to asylums under the Lancashire Asylums Board, see section 22 (3) of the Lancashire County (Lunatic Asylums, &c.) Act, 1891, post, p. 504.

“The Bank” means the Governor and Company of the Bank of England :

“Clerk,” in relation to a local authority, means, where the local authority is a county council, the clerk of the council, and where the local authority is a borough council, the town clerk of the borough :

See definition of “local authority,” section 240, ante.

“Commissioners” means the Commissioners in Lunacy :

Now constituted the Board of Control by the Mental Deficiency Act, 1913.

“Contingent right,” as applied to lands, includes a contingent and executory interest, a possibility coupled with an interest, whether the object of the gift or limitation of such interest or possibility be or be not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent :

“Convey” and “conveyance” include the performance of all formalities required to the validity of conveyances by

Section 341.

3 & 4 Will. 4,
c. 74.

married women and tenants in tail under the "Act for the abolition of fines and recoveries, and for the substitution of more simple modes of assurance," and also surrenders and other acts which a tenant of copyhold lands can perform preparatory to or in aid of a complete assurance of such copyhold lands :

"County," for the purpose of the powers exercisable by justices of a county, does not include a county of a city or county of a town (except the City of London), but includes any county, riding, division, part or liberty of a county having a separate court of quarter sessions :

This definition, it will be observed, is only applicable where the term is used for the purpose of the powers exercisable by justices, see section 10, *ante*, p. 165, as to reception orders ; section 177, *ante*, p. 314, as to visitors of licensed houses ; section 208, *ante*, p. 340, as to licensing of houses ; sections 287 *et seq.*, *ante*, p. 395, as to orders of settlements and maintenance.

The exclusion of counties of cities and counties of towns renders inapplicable the definition contained in section 4 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63.

51 & 52 Vict.
c. 41.

"County borough" has the same meaning as in the Local Government Act, 1888 :

47 & 48 Vict.
c. 64.

"Criminal lunatic" has the same meaning as in the Criminal Lunatics Act, 1884 :

See section 16 of the Criminal Lunatics Act, 1884, 47 & 48 Vict. c. 64, *post*, p. 733.

"District asylum" means an asylum provided by two or more counties in union, or by any county or counties in union with any borough or boroughs :

"Dividends" includes interest and other annual produce :

4 & 5 Will. 4,
c. 76.

"Guardians" means guardians appointed under the Poor Law Amendment Act, 1834, and the Acts amending the same, and includes guardians or other body of persons performing under any local Act the like functions as guardians under the Poor Law Amendment Act, 1834 :

This definition corresponds exactly to the definition of the expression "board of guardians" in section 16 (1) of the Interpretation Act, 1889, 52 & 53 Vict. c. 63. By section 24 (3) of the Local Government Act, 1894, 56 & 57 Vict. c. 73, guardians are not to be elected as such for rural parishes, but the district councillors for those parishes are to be the representatives of those parishes on the board of guardians, and when acting in that capacity are to be deemed guardians of the poor.

This definition covers the cases of certain incorporations and other places

where the powers of guardians are exercised by special authorities under Section 341. local Acts as follows :—

NOTE.

Birmingham.—(See 1 & 2 Will. 4, c. lxxvii., and 54 & 55 Vict. c. ii.)

Brighton.—The directors and guardians of the poor of the parish of Brighthelmston, in the county of Sussex. (See 6 Geo. 4, c. clxxix.)

Bristol.—The governor, deputy governor, assistants, and guardians of the poor of the city of Bristol. (See 3 Geo. 4, c. xxiv.) The whole of the Bristol Incorporation is one parish for purposes of settlement, as well as one union: *Bristol v. Barton Regis* (1891), 66 L. T. 190; 56 J. P. 311.

Bury Saint Edmunds.—The guardians of the poor of the borough of Bury Saint Edmunds, in the county of Suffolk. (See 21 Geo. 2, c. 21.)

Chichester.—The guardians of the poor of the city of Chichester. (See 26 Geo. 2, c. 99.)

East and West Flegg.—The directors and acting guardians of the poor within the hundreds of East and West Flegg, in the county of Norfolk. (See 15 Geo. 3, c. 13.)

Exeter.—The governor, deputy governor, assistants, and guardians of the poor of the city and county of Exon. (See 40 & 41 Vict. c. cxli.)

Forehoe.—The directors and acting guardians of the poor within the hundred of Forehoe, in the county of Norfolk. (See 16 Geo. 3, c. 9, and 3 & 4 Will. 4, c. cvii.)

Kingston-upon-Hull.—The governor, deputy governor, assistants, and guardians of the poor in the town of Kingston-upon-Hull. (See 5 Geo. 4, c. 13.)

Liverpool.—The select vestry of the parish of Liverpool, in the county of Lancaster. (See 5 & 6 Vict. c. lxxxviii.)

Norwich.—The guardians of the poor of the Norwich Incorporation. (See 26 & 27 Vict. c. xciii., and 52 & 53 Vict. c. clxxxvii.)

Oswestry.—The directors of the poor of the town and liberties of Oswestry, in the county of Salop, and of the poor of the several other parishes united therewith. (See 31 Geo. 3, c. 24.)

Oxford.—The guardians of the poor within the city of Oxford. (See 17 & 18 Vict. c. ccxix.)

Southampton.—The guardians of the poor within the town and county of the town of Southampton. (See 13 Geo. 3, c. 50.)

Stoke Damerel.—The Commissioners acting in the execution of the local Act for the relief of the poor of the parish of Stoke Damerel, in the county of Devon. (See 54 Geo. 3, c. clxxii.)

“Hospital” means any hospital or part of a hospital or other house or institution (not being an asylum) wherein lunatics are received and supported wholly or partly by voluntary contributions, or by any charitable bequest or gift, or by applying the excess of payments of some patients for or towards the support, provision, or benefit of other patients :

Section 341. "Inquisition" includes an order, certificate, or verdict operating as an inquisition :

"Institution for lunatics" means an asylum, hospital, or licensed house :

As to licensed houses, which it will be noticed are not defined in this section, see sections 207 to 229 inclusive, *ante*, pp. 337-346.

"Justice" means a justice of the peace :

"Land" includes an undivided share of land :

This definition is supplemental to the provisions contained in section 3 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, whereby it is enacted (amongst other things) that in every Act passed after the year 1850, whether before or after the commencement of this Act, unless the contrary intention appears, the expression "land" shall include messuages, tenements and hereditaments, houses and buildings of any tenure.

"Lease" includes underlease :

"Lunatic" means an idiot or person of unsound mind :

Imbecility and loss of mental power, whether arising from natural decay or from paralysis, softening of the brain, or other natural causes, and though unaccompanied by frenzy or delusion of any kind, constitute unsoundness of mind amounting to lunacy within the meaning of this definition : *Reg. v. Shaw* (1868), L. R. 1 C. C. R. 145 ; 37 L. J. M. C. 112 ; 18 L. T. (N.S.) 583 ; 16 W. R. 913 ; 11 Cox C. C. 109. See also definition of Imbecile, Idiot, &c., Mental Deficiency Act, 1913, section 1, *post*, p. 747.

By section 2 of the Trustee Act, 1850, 13 & 14 Vict. c. 60, the expression "person of unsound mind" was defined as meaning any person, not an infant, who, not having been found to be a lunatic, was incapable from infirmity of mind to manage his own affairs. See *Re Dewhurst's Trusts* (1886), 33 Ch. D. 416 ; 55 L. J. Ch. 842 ; 55 L. T. 427 ; 35 W. R. 147 ; *Re Martin's Trusts* (1887), 34 Ch. D. 618 ; 56 L. J. Ch. 695 ; 56 L. T. 241 ; 35 W. R. 524 ; *Re Phelps's Settlement Trusts* (1885), 31 Ch. D. 351 ; 55 L. J. Ch. 465 ; 54 L. T. 480 ; and *Re Barber* (1888), 39 Ch. D. 187 ; 57 L. J. Ch. 756 ; 58 L. T. 756 ; 37 W. R. 172.

"Magistrate" means a stipendiary magistrate and any magistrate appointed to act at any of the police courts of the metropolis :

See sections 9 and 338 (4), *ante*, pp. 164, 446, and the Rules of the Secretary of State, 31st March, 1890, *post*, p. 569.

"Manager" in relation to an institution for lunatics means the superintendent of an asylum, the resident medical officer or superintendent of a hospital, and the resident licensee of a licensed house :

"Masters" means the Masters in Lunacy.

“Medical officer” means, in the case of an asylum, the medical superintendent, or if the superintendent is not a medical practitioner the resident medical officer of the asylum, in the case of a hospital the superintendent, and in the case of a licensed house the resident medical practitioner, or if none the medical practitioner who visits the house as the medical attendant thereof :

“Medical practitioner” means a medical practitioner duly registered under the Medical Act, 1858, and the Acts amending the same, and the Medical Act, 1886 :

Section 341.
—
21 & 22 Vict.
c. 90.
49 & 50 Vict.
c. 48.

Evidence of Registration.—In connection with this definition it may be useful to note that by section 27 of the Medical Act, 1858, 21 & 22 Vict. c. 90, a copy of the medical register for the time being, purporting to be printed and published under the direction of the General Medical Council, “shall be evidence in all courts and before all justices of the peace and others that the persons therein specified are registered according to the provisions of this Act; and the absence of the name of any person from such copy shall be evidence, until the contrary be made to appear, that such person is not registered according to the provisions of this Act: Provided always, that in the case of any person whose name does not appear in such copy, a certified copy, under the hand of the registrar of the General Council or of any branch council, of the entry of the name of such person in the general or local register, shall be evidence that such person is registered under the provisions of this Act.”

Foreign and Colonial Degrees.—As to the registration of foreign and colonial practitioners, see section 46 of the Medical Act, 1858, 21 & 22 Vict. c. 90, and Part II., sections 11—18, of the Medical Act, 1886, 49 & 50 Vict. c. 48. Orders in Council have been issued applying Part II. of the Medical Act, 1886, to Ceylon (*London Gazette*, 1888, p. 1), New Zealand (*London Gazette*, 1887, p. 1909), New South Wales and Victoria (*London Gazette*, 1890, pp. 1885, 1886), South Australia (*London Gazette*, 1891, p. 1099), India (*London Gazette*, p. 2791). The medical register contains a table showing the several degrees granted in British possessions which are registrable under Part II. of the Medical Act, 1886.

“Mortgage” includes every estate, interest, or property in real or personal estate, which is a security for money or money’s worth :

Compare section 50 of the Trustee Act, 1893, 56 & 57 Vict. c. 53.

Security for Money.—A policy of life insurance is a “security for money:” *Lawrance v. Galsworthy* (1857), 3 Jur. (N.S.) 1049.

A deed conveying land to secure the repayment of money, and containing a trust of the surplus proceeds in case of sale for the borrower, “his executor, administrators, and assigns,” is more than a mere security for money: *Re Underwood* (1856), 3 K. & J. 745.

“Next-of-kin” includes heir-at-law, and the persons entitled

Section 341.

under the statutes for the distribution of the estates of intestates :

“ Pauper ” means a person wholly or partly chargeable to a union, county, or borough :

Reception Orders.—As to when a lunatic may be treated as a pauper for the purposes of making a summary reception order for his reception into an institution for lunatics as a pauper lunatic, see section 18, *ante*, p. 178.

Chargeability.—As to chargeability, see sections 286—298 inclusive, *ante*, pp. 393—410.

“ Paymaster-General ” includes the Assistant Paymaster-General for Supreme Court business :

See, as to these officials, the Chancery Funds Act, 1872, 35 & 36 Vict. c. 44 ; the Supreme Court of Judicature (Funds, &c.) Act, 1883, 46 & 47 Vict. c. 29 ; the Chancery Funds Amended Orders, 1874 ; and the Supreme Court Funds Rules, 1886.

“ *Possessed.* ”—As to definition of possessed, see Lunacy Act, 1891, section 28, *post*, p. 488.

“ Prescribed ” means prescribed by this Act or by any rules under this Act :

As to the power to make rules, see section 338, *ante*, p. 445.

“ Private patient ” means a patient who is not a pauper :

The definition does not include criminal lunatics : see section 340 (1), *ante*, p. 447.

“ Property ” includes real and personal property, whether in possession, reversion, remainder, contingency, or expectancy, and any estate or interest, and any undivided share therein :

See also definitions of “ land,” “ contingent right,” and “ stock.”

“ Public department ” means the Treasury, the Admiralty, and a Secretary of State, and any other public department of the Government :

Admiralty.—By section 12 (4) of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, it is enacted that in that Act and in every other Act, whether passed before or after the commencement of that Act, unless the contrary intention appears, the expression “ the Admiralty ” shall mean the Lord High Admiral of the United Kingdom for the time being, or the Commissioners for the time being for executing the office of Lord High Admiral of the United Kingdom.

“ Quarter sessions ” includes general sessions :

“ Quarter sessions borough ” means a borough having a separate court of quarter sessions :

“Reception order” means an order or authority made or given before or after the commencement of this Act for the reception of a lunatic, whether a pauper or not, in an institution for lunatics or as a single patient, and includes an urgency order : Section 341.

What Orders Included.—It will be observed that the definition includes orders made on petition for the reception of a private patient, as to which see sections 4 to 6 inclusive, *ante*, pp. 156–160 ; orders for the reception of a lunatic so found made by his committee or by a Master under section 12, *ante*, p. 169 ; summary reception orders, as to which see sections 13 to 22 inclusive, *ante*, pp. 170–182 ; reception orders made by two Commissioners under section 23, *ante*, p. 182, or by the Lord Chancellor under section 206 (3), *ante*, p. 335, as well as urgency orders under section 11, *ante*, p. 167. Moreover it is not confined to orders made under this Act or under the Acts and enactments consolidated by this Act.

“Relative” means a lineal ancestor or lineal descendant, or a lineal descendant of an ancestor not more remote than great-grandfather or great-grandmother :

See especially the use of this term in sections 4 (1) and 5 (1), *ante*, pp. 156, 157.

“Seised.”—As to definition of seised, see Lunacy Act, 1891, section 28, *post*, p. 488.

“Stock” includes any fund, annuity, or security transferable in books kept by any company or society, or by instrument of transfer alone, or by instrument of transfer, accompanied by other formalities, and any share or interest therein, and also shares in ships registered under the Merchant Shipping Act, 1854 : 17 & 18 Vict.
c. 104.

Compare the definition of “stock” in section 50 of the Trustee Act, 1893, 56 & 57 Vict. c. 53, and the provisions of section 35 (6) of the same Act. The Merchant Shipping Act, 1854, is now repealed and superseded by the Merchant Shipping Act, 1894, 57 & 53 Vict. c. 60.

Stock transferable by deed only has been held to be within the consolidated enactments. *Re Ives* (1863), 3 De G. J. & S. 453 ; 32 L. J. Ch. 673 ; 8 L. T. (N.S.) 266 ; 9 Jur. (N.S.) 611 ; 2 N. R. 2 ; 11 W. R. 578.

Shares in a joint-stock banking company have been held to be “stock” within the meaning of the former enactment : *Re Angelo* (1852), 5 De G. & S. 271. See also *In re New Zealand Trust and Loan Co.*, [1893] 1 Ch. 403, which decides that “stock” includes shares in a limited company whether fully paid up or not.

“Transfer” includes assignment, payment, and other disposition, and the execution, and performance, of every assurance and act to complete a transfer :

“Trust” and “trustee” include implied and constructive

Section 341.

trusts, and cases where the trustee has some beneficial interest, and also the duties incident to the office of personal representative of a deceased person, but not the duties incident to an estate conveyed by way of mortgage:

This definition has special application to sections 135 and 136, *ante*, pp. 289, 291.

Where an order for the sale of land had been made in lunacy under the Lunacy Regulation Act, 1862, and a contract for sale entered into and a deposit paid, but before the residue of the purchase-money had been paid the lunatic died, it was held that the lunatic could not be considered to have been a trustee of the land for the purchaser at the date of her death: *Re Colling* (1886), 32 Ch. D. 333; 55 L. J. Ch. 486; 54 L. T. 809; 34 W. R. 464. But where a party agreed to sell his leasehold premises and business for a sum, part to be paid down and part in five years, and on payment of the part to be paid down the purchaser was let into possession, and before the end of the five years the vendor went abroad and was there found lunatic, it was held that the vendor on payment of the residue would become a trustee within the meaning of this definition: *Re Pagani*, [1892] 1 Ch. 236; 66 L. T. 244.

An assignee in bankruptcy has been held a trustee within the meaning of the definition in section 2 of the Trustee Act, 1850: *Re Joyce* (1866), L. R. 2 Eq. 576. So also the trustee of a creditor's deed: *Re Donisthorpe* (1874), L. R. 10 Ch. 55; 44 L. J. Ch. 536; and see *Dewar v. Maitland* (1866), L. R. 2 Eq. 834.

“Union” means any parish or union of parishes for which there is a separate board of guardians:

“Visiting committee” means a committee of visitors of an asylum appointed under this Act:

“Workhouse” includes an asylum provided for reception and relief of the insane under the Metropolitan Poor Act, 1867, and the managers of every such asylum shall exercise the powers and perform the duties by this Act conferred and imposed upon the guardians of the union to which a workhouse belongs.

30 Vict. c. 6.

This definition supplies the place of the first part of section 21 (10) of the Lunacy Act, 1889, 52 & 53 Vict. c. 41, and the last part of section 30 of the Metropolitan Poor Act, 1867, 30 Vict. c. 6.

Asylums have been provided for the reception and relief of the insane poor under the Metropolitan Poor Act, 1867, 30 Vict. c. 6, at Leavesden, in the parishes of Watford and Abbots Langley, Herts; at Caterham, in Surrey; at Darenth, near Dartford, in Kent; at Tooting in Surrey; and Witham, Essex. The admission of paupers to these asylums, and their discharge therefrom, are regulated by Orders of the Local Government Board, dated the 10th February, 1875, and 12th August, 1887. See also the Order dated 30th January, 1891 (St. R. & O. 1891, p. 461), and notes to section 25, *ante*, p. 186.

342. (*The Acts mentioned in the Fifth Schedule are hereby repealed to the extent set forth in the third column of the same schedule.* Section 342.
Repeal.)

Provided that) this repeal shall not affect any jurisdiction or practice established, confirmed, or transferred, or salary or compensation or superannuation secured, by or under any enactment repealed by this Act.

The words in brackets were repealed by the Statute Law Revision Act, 1908.

Repeal of Repealing Enactments.—By section 11 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, it is enacted that—

“(1.) Where an Act passed after the year 1850, whether before or after the commencement of this Act, repeals a repealing enactment, it shall not be construed as reviving any enactment previously repealed, unless words are added reviving that enactment.

“(2.) Where an Act passed after the year 1850, whether before or after the commencement of this Act, repeals wholly or partially any former enactment and substitutes provisions for the enactment repealed, the repealed enactment shall remain in force until the substituted provisions come into operation.”

General Effects of Repeal.—By section 38 of the same Act it is further provided that—

“(1.) Where this Act, or any Act passed after the commencement of this Act, repeals and re-enacts, with or without modification, any provisions of a former Act, references in any other Act to the provisions so repealed shall, unless the contrary intention appears, be construed as references to the provisions so re-enacted.

“(2.) Where this Act, or any Act passed after the commencement of this Act repeals any other enactment, then, unless the contrary intention appears, the repeal shall not—

- (a.) revive anything not in force or existing at the time at which the repeal takes effect ; or,
- (b.) affect the previous operation of any enactment so repealed or anything duly done or suffered under any enactment so repealed ; or,
- (c.) affect any right, privilege, obligation, or liability acquired, accrued or incurred under any enactment so repealed ; or,
- (d.) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment repealed ; or,
- (e.) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid ;

and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed as if the repealing Act had not been passed.”

Schedule 1.

SCHEDULES.

THE FIRST SCHEDULE.

Section 111.

Declaration to be made by a Master.

I, _____, declare that I will faithfully, impartially, and honestly, according to the best of my skill and knowledge, execute the powers and trusts committed to me as one of the Masters in Lunacy, and that without favour or affection, prejudice or malice.

Section 151.

Declaration to be made by a Commissioner.

I, _____, declare that I will discreetly, impartially, and faithfully execute all the powers and trusts committed to me as one of the (a) Commissioners in Lunacy, and that I will keep secret all such matters as come to my knowledge in the execution of my office (except when required to divulge the same by legal authority, or so far as I feel myself called upon to do so for the better execution of my duties).

Section 157. *Declaration to be made by the Secretary and Clerks of the Commissioners.*

I, _____, declare that I will faithfully execute all the trusts and duties committed to me as Secretary of the (a) Commissioners in Lunacy [*or*, as Clerk of the (a) Commissioners in Lunacy], and that I will keep secret all such matters as come to my knowledge in the execution of my office (except when required to divulge the same by legal authority).

Section 179.

Declaration to be made by Assistants to the Clerk of the Visitors.

I, _____, declare that I will faithfully keep secret all matters and things which come to my knowledge in consequence of my employment as Assistant to the Clerk of the Visitors of licensed houses appointed for the county [*or* borough] of _____ unless required to divulge the same by legal authority.

Section 339.

THE SECOND SCHEDULE.

FORM 1.

Sections 4, 5.

Petition for an Order for Reception of a Private Patient.

In the matter of A. B. a person alleged to be of unsound mind.

To _____ a justice of the peace for _____ [*or*
To His Honour the judge of the county court of _____ *or*
To _____ stipendiary magistrate for _____.]

(a) Now Commissioners of the "Board of Control."

Schedule 2.

FORM 1.

The petition of *C. D.* of (a) in the county of .
 1. I am (b) years of age.
 2. I desire to obtain an order for the reception of *A. B.* as a lunatic (c)
 in the asylum [or hospital or house as the case may be] of
 situate at (d) .

3. I last saw the said *A. B.* at on the (e) day of .
 4. I am the (f) of the said *A. B.* [or if the petitioner is not
 connected with or related to the patient state as follows :]

I am not related to or connected with the said *A. B.* The reasons why
 this petition is not presented by a relation or connection are as follows :
 [State them.]

The circumstances under which this petition is presented by me are as
 follows : [State them.]

5. I am not related to or connected with either of the persons signing
 the certificates which accompany this petition as (*where the petitioner is a
 man*) husband, father, father-in-law, son, son-in-law, brother, brother-in-
 law, partner, or assistant (*or where the petitioner is a woman*) wife, mother,
 mother-in-law, daughter, daughter-in-law, sister, sister-in-law, partner,
 or assistant.

6. I undertake to visit the said *A. B.* personally or by some one specially
 appointed by me at least once in every six months while under care and
 treatment under the order to be made on this petition.

7. A statement of particulars relating to the said *A. B.* accompanies this
 petition.

If it is the fact add :

8. The said *A. B.* has been received in the asylum [or hospital
 or house as the case may be] under an urgency order dated the .

The petitioner, therefore, prays that an order may be made in accordance
 with the foregoing statement.

[Signed]

full Christian and surname.

Date of presentation of the petition (g).

FORM 2.

Statement of Particulars.

Sections 4, 5,
 11.

STATEMENT of particulars referred to in the annexed petition [or in the
 above or annexed order].

(a) Full postal address and rank, profession, or occupation.

(b) At least twenty-one.

(c) Or an idiot or person of unsound mind.

(d) Insert a full description of the name and locality of the asylum, hospital,
 or licensed house, or the full name, address, and description of the person who
 is to take charge of the patient as a single patient.

(e) Some day within fourteen days before the date of the presentation of the
 petition.

(f) Here state the connection or relationship with the patient.

(g) See section 23 of the Lunacy Act, 1891, 54 & 55 Vict. c. 65, *post*, p. 485.

Schedule 2. The following is a statement of particulars relating to the said *A. B.* (a)
Name of patient with Christian name at length.

FORM 2.

Sex and age.

†Married, single, or widowed.

†Rank, profession, or previous occupation (if any).

†Religious persuasion.

Residence at or immediately previous to the date hereof.

†Whether first attack.

Age on first attack.

When and where previously under care and treatment as a lunatic, idiot,
or person of unsound mind.

†Duration of existing attack.

Supposed cause.

Whether subject to epilepsy.

Whether suicidal.

Whether dangerous to others, and in what way.

Whether any near relative has been afflicted with insanity.

Names, Christian names, and full postal addresses of one or more relatives
of the patient.

Name of the person to whom notice of death to be sent, and full postal
address if not already given.

Name and full postal address of the usual medical attendant of the
patient.

(Signed)

<p>When the petitioner or person signing an urgency order is not the person who signs the statement, add the following particulars concerning the person who signs the statement.</p>	{	<p>Name with Christian name at length. Rank, profession, or occupation (if any). How related to or otherwise connected with the patient.</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---	------------------------------------------------------------------------------------------------------------------------------------------------------

Section 6.

FORM 3.

Order for reception of a private patient to be made by a Justice appointed under the Lunacy Act, 1890, Judge of County Courts, or Stipendiary Magistrate.

I, the undersigned *E. F.*, being a Justice for _____ specially appointed under the Lunacy Act, 1890 [*or the Judge of the County Court of _____ or the Stipendiary Magistrate for _____*] upon the petition of *C. D.*, of (b) _____ in the matter of *A. B.* a lunatic, (c) accompanied by the medical certificates of *G. H.* and *I. J.* hereto annexed, and upon the undertaking

(a) If any particulars are not known, the fact is to be so stated. [Where the patient is in the petition or order described as an idiot omit the particulars marked †.]

(b) Address and description.

(c) Or an idiot or person of unsound mind.

of the said *C. D.* to visit the said *A. B.* personally or by some one specially appointed by the said *C. D.* once at least in every six months while under care and treatment under this order, hereby authorise you to receive the said *A. B.* as a patient into your asylum. (*a*) And I declare that I have [*or have not*] personally seen the said *A. B.* before making this order.

Dated

(Signed) *E. F.*

A Justice for appointed under
the above-mentioned Act, [*or The*
Judge of the County Court of
or a Stipendiary Magistrate.]

To (*b*)

FORM 3.

FORM 4.

Section 11.

Form of urgency Order for the reception of a Private Patient.

I, the undersigned, being a person twenty-one years of age, hereby authorise you to receive as a patient into your house (*c*) *A. B.*, as a lunatic, (*d*) whom I last saw at on the (*e*) day of 18 . I am not related to or connected with the person signing the certificate which accompanies this order in any of the ways mentioned in the margin. (*f*) Subjoined [*or annexed*] hereto (*g*) is a statement of particulars relating to the said *A. B.*

(Signed) Name and Christian name at length.

Rank, profession, or occupation (if any).

Full postal address.

How related to or connected with the patient.

[If not the husband or wife or a relative of the patient,

the person signing to state as briefly as possible:

1. Why the order is not signed by the husband or wife or a relative of the patient. 2. His or her connection with the patient, and the circumstances under which he or she signs.]

Dated this day of 18 .
To superintendent of the asylum [
hospital or resident licensee of the house].

Describing
the asylum,
hospital, or
house by
situation and
name.

(*a*) Or hospital or house or as a single patient.

(*b*) To be addressed to the medical superintendent of the asylum or hospital, or to the resident licensee of the house in which the patient is to be placed.

(*c*) Or hospital or asylum or as a single patient.

(*d*) Or an idiot or a person of unsound mind.

(*e*) Some day within two days before the date of the order.

(*f*) Husband, wife, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, partner, or assistant.

(*g*) See Form 2.

Schedule 2.

FORM 5.

Certificate as to Personal Interview after Reception.

FORM 5.

Section 8.

I certify that it would be prejudicial to *A. B.* to be taken before or visited by a justice, a judge of county courts, or magistrate.

(Signed) *C. D.*,

Medical Superintendent of the
Asylum *or* Hospital *or* Resident Medical
Practitioner *or* Attendant of the
or Medical Attendant of the said *A. B.*

Section 8.

FORM 6.

Notice of Right to Personal Interview.

Take notice that you have the right, if you desire it, to be taken before or visited by a justice, judge of county courts, or magistrate. If you desire to exercise such right, you must give me notice thereof by signing the enclosed form on or before the day of .

Dated .

Signed *C. D.*

Superintendent of the
Asylum *or* Hospital *or* Resident
Licensee of [*or as the case
may be.*]

Section 8.

FORM 7.

Notice of Desire to have a Personal Interview.

Dated

[*Address*]

I desire to be taken before or visited by a justice, judge of county court, or magistrate.

Signed

This amended form was altered from that originally given in the schedule by a Rule of the Commissioners in Lunacy, dated 12th March, 1913, for the purpose of bringing it into agreement with the Notice of Right.

Sections 4,
11, 16, 23, 24.

FORM 8.

Certificate of Medical Practitioner.

In the matter of *A. B.* of (*a*) in the county (*b*) of (*c*),
an alleged lunatic.

I, the undersigned *C. D.*, do hereby certify as follows:—

1. I am a person registered under the Medical Act, 1858, and I am in the actual practice of the medical profession.

(*a*) Insert residence of patient.

(*b*) City or borough, as the case may be.

(*c*) Insert profession or occupation, if any.

2. On the day of 18 , at (a) in the county (b) of **Schedule 2.**
 [separately from any other practitioner, (c)] I personally
 examined the said A. B. and came to the conclusion that he is a [lunatic, an
 idiot, or a person of unsound mind] and a proper person to be taken charge
 of and detained under care and treatment. FORM 8.

3. I formed this conclusion on the following grounds, viz. :—

(a.) Facts indicating insanity observed by myself at the time of examina-
 tion, (d) viz. :—

(b.) Facts communicated by others, viz. (e) :—

[If an urgency certificate is required it must be added here. See Form 9.]

4. The said A. B. appeared to me to be [or not to be] in a fit condition
 of bodily health to be removed to an asylum, hospital, or licensed house. (f)

5. I give this certificate having first read the section of the Act of
 Parliament printed below.

Dated

(Signed) C. D., of (g)

Extract from section 317 of the Lunacy Act, 1890.

Any person who makes a wilful misstatement of any material fact in any
 medical or other certificate or in any statement or report of bodily or
 mental condition under this Act, shall be guilty of a misdemeanor.

FORM 9.

Sections 11,
28.

Statement accompanying Urgency Order.

I certify that it is expedient for the welfare of the said A. B. [or for the
 public safety, as the case may be] that the said A. B. should be forthwith
 placed under care and treatment.

My reasons for this conclusion are as follows : [state them].

FORM 10.

Section 24.

Certificate as to pauper Lunatic in a Workhouse.

I, the undersigned Medical Officer of Workhouse of the
 Union hereby certify that I have carefully examined into the state of health
 and mental condition of A. B., a pauper in the said workhouse, and that
 he is in my opinion a lunatic, and a proper person to be allowed to remain
 in the workhouse as a lunatic, and that the accommodation in the workhouse

(a) Insert the place of examination, giving the name of the street with
 number or name of house, or should there be no number the Christian and
 surname of occupier.

(b) City or borough, as the case may be.

(c) Omit this where only one certificate is required.

(d) If the same or other facts were observed previous to the time of the
 examination, the certifier is at liberty to subjoin them in a separate paragraph.

(e) The names and Christian names (if known) of informants to be given,
 with their addresses and descriptions.

(f) Strike out this clause in case of a private patient whose removal is not
 proposed.

(g) Insert full postal address.

Schedule 2. is sufficient for his proper care and treatment separate from the inmates of the workhouse not lunatics [*or, that his condition is such that it is not necessary for the convenience of the lunatic or of the other inmates that he should be kept separate*].

FORM 10.

The grounds for my opinion that the said *A. B.* is a lunatic are as follows :

Dated

(Signed)

Medical Officer of the Workhouse.

FORM 11.

Order for detention of Lunatic in Workhouse.

Section 24.

I, the undersigned *C. D.*, a justice of the peace for being satisfied that *A. B.*, a pauper in the workhouse of the is a lunatic [*or idiot or person of unsound mind*], and a proper person to be taken charge of under care and treatment in the workhouse, and being satisfied that the accommodation in the workhouse is sufficient for his proper care and treatment separate from the inmates of the workhouse not lunatics [*or, that his condition is such that it is not necessary for the convenience of the lunatic or of the other inmates that he should be kept separate*] hereby authorise you to take charge of, and, if the workhouse medical officer shall certify it to be necessary, to detain the said *A. B.* as a patient in your workhouse. Subjoined is a statement of particulars respecting the said *A. B.*

(Signed) *C. D.*,

A justice of the peace
for

Dated

To the Master of the
Workhouse
of the

Statement of Particulars.

Name of patient and Christian name at length.

Sex and age.

Married, single, or widowed.

Condition of life and previous occupation (if any).

Religious persuasion as far as known.

Previous place of abode.

Whether first attack.

Age (if known) on first attack.

When and where previously under care and treatment.

Duration of existing attack.

Supposed cause.

Whether subject to epilepsy.

Whether suicidal.

Whether dangerous to others.

Whether any near relative has been afflicted with insanity.

Schedule 2.

Name and Christian name and address of nearest known relative of the patient and degree of relationship if known.

FORM 11.

I certify that to the best of my knowledge the above particulars are correct.

[To be signed by the relieving officer.]

FORM 12.

Section 16.

Order for reception of a Pauper Lunatic or Lunatic wandering at large.

I, *C. D.*, having called to my assistance *E. F.*, of _____, a duly qualified medical practitioner, and being satisfied that *A. B.* [*describing him*] is a pauper in receipt of relief [*or in such circumstances as to require relief for his proper care and maintenance*], and that the said *A. B.* is a lunatic [*or an idiot, or a person of unsound mind*] and a proper person to be taken charge of and detained under care and treatment, *or that A. B. [describing him] is a lunatic, and was wandering at large, and is a proper person to be taken charge of and detained under care and treatment, hereby direct you to receive the said A. B. as a patient into your asylum [or hospital, or house].* Subjoined is a statement of particulars respecting the said *A. B.*

(Signed) *C. D.*,

A justice of the peace for

Dated the _____ day of _____, one thousand eight hundred and _____.

To the superintendent of the asylum for the county [*or borough*] of _____ [*or the lunatic hospital of _____; or E. F. _____ proprietor of the licensed house of _____; describing the asylum, hospital, or house.*]

Note.—Where the order directs the lunatic to be received into any asylum other than an asylum of the county or borough in which the parish or place from which the lunatic is sent is situate, or into a registered hospital or licensed house, it shall state that the justice making the order is satisfied that there is no asylum of such county or borough, or that there is a deficiency of room in such asylum; or (as the case may be) the special circumstances, by reason whereof the lunatic cannot conveniently be taken to an asylum for such first-mentioned county or borough.

Statement of Particulars.

STATEMENT of particulars referred to in the above or annexed order.

The following is a statement of particulars relating to the said *A. B.* (*a*):—

Name of patient, with Christian name at length.

Sex and age.

†Married, single, or widowed.

†Rank, profession, or previous occupation (if any).

†Religious persuasion.

(*a*) If any particulars are not known, the fact is to be so stated.

[Where the patient is in the order described as an idiot omit the particulars marked †.]

Schedule 2. Residence at or immediately previous to the date hereof.

FORM 12.

†Whether first attack.

Age on first attack.

When and where previously under care and treatment as a lunatic, idiot, or person of unsound mind.

†Duration of existing attack.

Supposed cause.

Whether subject to epilepsy.

Whether suicidal.

Whether dangerous to others, and in what way.

Whether any near relative has been afflicted with insanity.

Union to which lunatic is chargeable.

Names, Christian names, and full postal addresses of one or more relatives of the patient.

Name of the person to whom notice of death to be sent, and full postal address if not already given.

(Signed) G. H.

To be signed by the Relieving Officer or Overseer.

Section 38.

FORM 13.

Certificate that patient continues of unsound mind.

[This form has been repealed by section 29 and the Schedule of the Lunacy Act, 1891, 54 & 55 Vict. c. 65, *post*, pp. 488, 489. See notes to section 38, *ante*, p. 198.]

Section 229.

FORM 14.

Consent to the admission of a Boarder.

We hereby sanction the admission of *A. B.* as a boarder into
for the term of from the day of in accordance
with the provisions of the statute, and in terms of *A. B.*'s application.

(Signed)

(a) Two of the Commissioners in Lunacy.

[or Two of the justices for .]

Dated the day of 18 .

Section 13.

FORM 15.

Order for reception of a Lunatic not under proper care and control or cruelly treated or neglected, to be made by a Justice appointed under the Lunacy Act, 1890.

I, the undersigned *C. D.*, being a justice for specially appointed under the Lunacy Act, 1890, having caused *A. B.* to be examined by two duly qualified medical practitioners, and being satisfied that the said *A. B.* is a lunatic not under proper care and control [or is cruelly treated or neglected by the person having the care or charge of him], and that he is a proper person to be taken charge of and detained under care and treatment, hereby direct you to receive the said *A. B.* as a patient into your

(a) See Order in Council, 9th March, 1914, *ante*, 301.

asylum [or hospital or house]. Subjoined is a statement of particulars **Schedule 2.**
respecting the said *A. B.*

(Signed)

FORM 15.

A justice of the peace for
appointed under the above-
mentioned Act.

Dated

To the superintendent of the asylum for , or of the
lunatic hospital of , or the resident licensee of the
licensed house at .

Note.—Where the order directs the lunatic to be received into any asylum other than an asylum of the county or borough in which the parish or place from which the lunatic is sent is situate, or into a registered hospital or licensed house, it shall state that the justice making the order is satisfied that there is no asylum of such county or borough, or that there is a deficiency of room in such asylum ; or (as the case may be) the special circumstances by reason whereof the lunatic cannot conveniently be taken to an asylum for such first-mentioned county or borough.

Statement of Particulars.

STATEMENT of particulars referred to in the above or annexed order.

The following is a statement of particulars relating to the said *A. B. (a)* :—

Name of patient, with Christian name at length.

Sex and age.

†Married, single, or widowed.

†Rank, profession, or previous occupation (if any).

†Religious persuasion.

Residence at or immediately previous to the date hereof.

†Whether first attack.

Age on first attack.

When and where previously under care and treatment as a lunatic,
idiot, or person of unsound mind.

†Duration of existing attack.

Supposed cause.

Whether subject to epilepsy.

Whether suicidal.

Whether dangerous to others, and in what way.

Whether any near relative has been afflicted with insanity.

Union to which lunatic is chargeable.

Names, Christian names, and full postal addresses of one or more
relatives of the patient.

Name of the person to whom notice of death to be sent, and full postal
address, if not already given.

(Signed)

To be signed by the relieving officer,
overseer, or other person on whose
information the order is made.

(a) If any particulars are not known, the fact is to be so stated.

[Where the patient is in the order described as an idiot, omit the particulars marked †.]

Schedule 2.

FORM 16.

FORM 16.
Section 335.

Certificate of Disability of Person entitled to Payments from a Public Department.

I, _____, being a justice of the peace for _____ or the rector, or vicar, or minister [state the denomination and residence], hereby certify that I know the said A. B., and that I believe him or her to be unable, by reason of mental disability, to manage his or her affairs; and I further certify that I believe the family of the said A. B. to consist of _____.

Dated _____.

Signed [Name].

[Place of abode.]

Section 335.

FORM 17.

Medical Certificate of Disability of Person entitled to Payments from a Public Department.

I, _____, being a person registered under the Medical Act, 1858, and in the actual practice of my profession, hereby certify that I have this day visited and personally examined A. B., and that the said A. B. is unable by reason of mental disability to manage his or her affairs, and that I have formed this conclusion on the following grounds, viz.: [state them].

Dated _____.

Signed [Name].

[Postal address in full.]

Section 207.

FORM 18.

Form of Licence by Commissioners for a House not previously licensed.

KNOW ALL MEN, that we, the (a) Commissioners in Lunacy, do hereby certify that A. B. of _____ in the parish of _____ in the county of _____ has delivered to us a plan and description of a house and premises situate at _____ in the county of _____ proposed to be licensed for the reception of lunatics, and we, having considered and approved the same, do hereby authorise the said A. B. (he undertaking to reside therein) to use the said house and premises for the reception of _____ male [or female or _____ male and _____ female] lunatics, of whom not more than _____ shall be private patients, for _____ calendar months from this date.

Sealed with our common seal this _____ day of _____ 18 ____.

Witness,

Y. Z., Secretary to the (a) Commissioners of Lunacy.

(a) Now the Commissioners of the "Board of Control."

FORM 19.

Schedule 2.

Form of Licence by Justices for a House not previously licensed.

FORM 19.

Section 207.

KNOW ALL MEN, that we, the undersigned justices of the peace, acting in and for in general [*or quarter or special*] sessions assembled, do hereby certify that *A. B.* of in the parish of in the county of has delivered to the clerk of the peace a plan and description of a house and premises situate at in the county of proposed to be licensed for the reception of lunatics, and has applied to us for a licence thereof: And whereas the (*a*) Commissioners in Lunacy have reported upon the said application, and their report has been received, and has been taken into consideration by us; Now we, having considered and approved the application, do hereby authorise the said *A. B.* (he undertaking to reside therein) to use the said house and premises for the reception of male [*or female or* male and female] lunatics, of whom not more than shall be private patients, for the space of calendar months from this date.

Given under our hands and seals this day of 18 .

Witness, *Y. Z., Clerk of the Peace.*

FORM 20.

Section 207.

Licence by Commissioners or Justices for a House previously licensed.

KNOW ALL MEN, that we, the (*a*) Commissioners in Lunacy [*or we the undersigned justices of the peace for* in general (*or quarter or special*) sessions assembled] do hereby certify that *A. B.* of in the parish of in the county of has delivered to us [*or the clerk of the peace*] a list of the number of patients now detained in a house and premises situate at in the county of licensed on the day of for the reception of lunatics, and we, having considered the same, do hereby authorise the said *A. B.*, he undertaking to reside therein, to use the said house and premises for the reception of male [*or female or* male and female] lunatics, of whom not more than shall be private patients, for calendar months from this date.

Sealed with our common seal [*or given under our hands and seals*], this day of .

Witness,

Y. Z., Secretary to the (a) Commissioners in Lunacy,
[*or Clerk of the Peace*].

(*a*) Now the Commissioners of the "Board of Control."

Schedule 2.

FORM 21.

FORM 21.

FORM of AGREEMENT for uniting for the purpose of erecting or providing
an asylum for the reception of lunatics.

Section 248.

It is agreed this day of between the visiting committees
for the county of and the borough of [*as the case may be*],
that the said county and borough [*as the case may be*], shall henceforth be
united for the purposes of the Lunacy Act, 1890 ; and that an asylum for
the reception of lunatics, with all necessary buildings, courts, yards, and
outlets, shall be immediately provided and properly fitted up and accom-
modated for the purposes mentioned in the said Act ; and that the necessary
expenses attending the providing, building, fitting up, repairs, and main-
tenance of the said asylum shall be defrayed by the said county and borough,
so united, in the following proportions, such proportions being fixed
according to the probable extent of the accommodation required for the
lunatics of the contracting county and borough ; (that is to say,)

The county of Five-ninths of the said expenses.

The borough of Four-ninths of the same.

[*as the case may be, or if the expenses are not fixed with reference to the probable
extent of the accommodation, insert instead of the last clause.*]

The expenses shall be from time to time charged upon and raised by
such county and borough in proportion to their respective populations as
stated in the last return for the time being made of the same under the
authority of Parliament.

And it is further agreed, that the committee of visitors to superintend
the building, erection, and management of the said asylum shall be
appointed in the following proportions ; the council for the said county
of shall appoint * , and the council for the borough of
 shall appoint * and the proportions in which the said
committee of visitors are to be appointed as aforesaid may be from time
to time varied, with the consent in writing under the hands of the greater
number of visitors of the said county and borough, and with the consent
of the (a) Commissioners in Lunacy. And hereunto, we, the undersigned,
being the majority of each of the committees appointed by the said councils
respectively do on behalf of the said councils set our hands and seals, this
day of .

Section 332.

FORM 22.

FORM OF SUMMONS.

WE, the Commissioners in Lunacy (a) (b) [or we whose names are hereunto
set and seals affixed, being two of the Commissioners in Lunacy (a), or

* Insert in these blanks either the number or the proportion of visitors ;
and where the number of the committee of visitors is not fixed in the agreement,
but only the proportions, a provision shall be made by the agreement for fixing
from time to time the number of such committee.

(a) Now the Commissioners of the " Board of Control."

(b) See also Order in Council, 9th March, 1914, *ante*, p. 301.

visitors of _____], do hereby summon you personally to appear before us **Schedule 2.**
 at _____ in the parish of _____ in the county of _____ on _____
 next the _____ day of _____ at the hour of _____ in the _____ noon **FORM 22.**
 of the same day, and then and there to be examined, and to testify the
 truth touching certain matters relating to the execution of the Lunacy
 Act, 1890.

Sealed with the common seal of "The ^(a) Commissioners in Lunacy" [or
 given under our hands and seals] this _____ day of _____.

THE THIRD SCHEDULE.

Section 208.

PLACES WITHIN IMMEDIATE JURISDICTION OF COMMISSIONERS.

The cities of London and Westminster, the counties of London and Middlesex, and the following parishes and places; (that is to say,) Barnes, Kew Green, Mortlake, Merton, Mitcham, and Wimbledon, in the County of Surrey; Southend, in the County of Kent; and East Ham, Leyton, Leytonstone, Low Leyton, Plaistow, West Ham, and Walthamstow, in the county of Essex; and also every other place, if any, within the distance of seven miles from any part of the cities of London or Westminster, or of the borough of Southwark.

THE FOURTH SCHEDULE.

Sections 169,
240, 245, 246.

BOROUGHES THE COUNCILS OF WHICH ARE LOCAL AUTHORITIES UNDER THIS ACT.

Barnstaple.	<i>Maidstone. (b)</i>
Bedford.	Newark.
<i>Berwick-on-Tweed. (c)</i>	Newbury.
<i>Bridgwater. (c)</i>	Newcastle-under-Lyme.
Bury St. Edmunds.	<i>New Sarum. (c)</i>
Cambridge.	New Windsor.
Colchester.	Penzance.
Doncaster.	<i>Poole. (c)</i>
<i>Dover. (b)</i>	Rochester.
<i>Grantham. (c)</i>	<i>Scarborough. (c)</i>
Gravesend.	Shrewsbury.
Guildford.	Tiverton.
Hereford.	Warwick.
King's Lynn.	Wenlock.
London (City of).	<i>Winchester. (c)</i>

(a) Now the Commissioners of the "Board of Control."

(b) These boroughs have been struck out of this schedule by section 29 and schedule of the Lunacy Act, 1891, 54 & 55 Vict. c. 65, *post*.

(c) These boroughs have ceased to be local authorities under this Act in accordance with the provisions of section 246, *ante*.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
4 & 5 Will. 4, c. 76.	<i>An Act for the amendment and better administration of the Laws relating to the Poor in England and Wales.</i>	Section forty-five.
8 & 9 Vict. c. 100.	<i>An Act for the regulation of the care and treatment of lunatics.</i>	The whole Act.
13 & 14 Vict. c. 60.	<i>The Trustee Act, 1850.</i>	Sections three, four, five, six, and fifty-six. Sections twenty, twenty-six, twenty-seven, twenty-eight, thirty-one, forty, forty-one, forty-two, forty-four, forty-five, fifty-one, fifty-two, and fifty-three, so far as they relate to "the Lord Chancellor entrusted as aforesaid." Except so far as the above sections relate to Ireland.
15 & 16 Vict. c. 48.	<i>An Act for the amendment of the law respecting the property of lunatics.</i>	The whole Act.
15 & 16 Vict. c. 55.	<i>An Act to extend the provisions of the Trustee Act, 1850.</i>	Sections six and seven, so far as relates to the Lord Chancellor entrusted as aforesaid, and sections ten and eleven. Except so far as the above sections relate to Ireland.
16 & 17 Vict. c. 70.	<i>The Lunacy Regulation Act, 1853.</i>	The whole Act.
16 & 17 Vict. c. 96.	<i>An Act to amend an Act passed in the ninth year of Her Majesty for the regulation of the care and treatment of lunatics.</i>	The whole Act.
16 & 17 Vict. c. 97.	<i>The Lunatic Asylums Act, 1853.</i>	The whole Act.
18 Vict. c. 13.	<i>An Act to amend and explain the Lunacy Regulation Act, 1853.</i>	The whole Act.
18 & 19 Vict. c. 105.	<i>An Act to amend the Lunatic Asylums Act, 1853, and the Acts passed in the ninth and seventeenth years of Her Majesty for the Regulation of the Care and Treatment of Lunatics.</i>	The whole Act.
19 & 20 Vict. c. 87.	<i>An Act to amend the Lunatic Asylums Act, 1853.</i>	The whole Act.

* Schedule repealed by the Statute Law Revision Act, 1908.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
23 & 24 Vict. c. 127.	<i>An Act to amend the law relating to attorneys, solicitors, proctors, and certificated conveyancers.</i>	<i>Section twenty-nine.</i>
24 & 25 Vict. c. 55.	<i>An Act to amend the laws regarding the removal of the poor, and the contribution of parishes to the common fund in unions.</i>	<i>Section seven.</i>
25 & 26 Vict. c. 86.	<i>The Lunacy Regulation Act, 1862.</i>	<i>The whole Act.</i>
25 & 26 Vict. c. 111.	<i>The Lunacy Acts Amendment Act, 1862.</i>	<i>The whole Act.</i>
26 & 27 Vict. c. 110.	<i>The Lunacy Acts Amendment Act, 1863.</i>	<i>The whole Act.</i>
28 & 29 Vict. c. 80.	<i>The Lunacy Act Amendment Act, 1865.</i>	<i>The whole Act.</i>
30 Vict. c. 6.	<i>The Metropolitan Poor Act, 1867.</i>	<i>In section thirty, the words "and every such asylum" to the end of the section.</i>
30 & 31 Vict. c. 87.	<i>The Court of Chancery (Officers) Act, 1867.</i>	<i>Section thirteen.</i>
30 & 31 Vict. c. 106.	<i>The Poor Law Amendment Act, 1867.</i>	<i>Section twenty-two, except as regards persons suffering from delirium tremens, or from bodily disease of a contagious or infectious character.</i>
31 & 32 Vict. c. 122.	<i>The Poor Law Amendment Act, 1868.</i>	<i>Section forty-three.</i>
34 & 35 Vict. c. 14.	<i>The County Property Act, 1871.</i>	<i>Section two.</i>
38 & 39 Vict. c. 77.	<i>The Supreme Court of Judicature Act, 1875.</i>	<i>Section seven. In section twenty-six, the words "(including the percentage on estates of lunatics)" and the words "(including the masters and other officers in lunacy)."</i>
45 & 46 Vict. c. 82.	<i>The Lunacy Regulation Amendment Act, 1882.</i>	<i>The whole Act.</i>
48 & 49 Vict. c. 52.	<i>The Lunacy Acts Amendment Act, 1885.</i>	<i>The whole Act.</i>
51 & 52 Vict. c. 41.	<i>The Local Government Act, 1888.</i>	<i>Section thirty-two, sub-section three, sub-clause (c); section eighty-six, sub-sections one, two, three, four, six, seven, and eight.</i>
52 & 53 Vict. c. 41.	<i>The Lunacy Acts Amendment Act, 1889.</i>	<i>The whole Act.</i>

THE LUNACY ACT, 1891.

54 & 55 VICT. CAP. 65.

AN ACT to amend the Lunacy Act, 1890.

[5th August, 1891.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Section 1. **1.** This Act may be cited as the Lunacy Act, 1891, and this Act shall be construed as one with the Lunacy Act, 1890 (in this Act called the principal Act), and this Act and the principal Act may be cited together as the Lunacy Acts, 1890 and 1891.

Short title.
53 & 54 Vict.
c. 5.

This Act contains no special provision as to coming into operation. The date of the Royal Assent is, therefore, the date of the commencement of the Act, which, according to the general rule of construction of Acts of Parliament, must be regarded, in the absence of express provision to the contrary, as retrospective only in so far as it introduces alterations in procedure, and prospective only in so far as it alters rights and liabilities.

Provisions as
to relieving
officers.

2. (1.) A constable, relieving officer, or overseer whose duty it is, under the principal Act, to convey a lunatic to or from an institution for lunatics, may make proper arrangements for the performance of the duty by some other person or persons.

[Special
relieving
officers for
lunatics.]

(2.) Where in a union there are two or more relieving officers, and the guardians, with the sanction of the Local Government Board, direct one relieving officer to discharge throughout the union the duties of a relieving officer in respect of lunatics, every other relieving officer in the union shall inform the officer so directed of any case of a lunatic, with which it would otherwise devolve upon such other relieving officer to deal, and it shall be the duty of the relieving officer receiving such

information to deal with the case, and the other relieving officer shall be discharged from any further duty in the matter. Section 2.

This sub-section is intended to remove the difficulties occasioned by the taking away of relieving officers from their ordinary districts and duties to deal with lunatics, a necessity which was often detrimental to the greater needs of the ordinary outdoor poor.

3. A lunatic sent to an institution for lunatics under section thirteen or sixteen of the principal Act shall be classified as a pauper, until it is ascertained that he is entitled to be classified as a private patient. Classification of lunatics received under ss. 13, 16, of principal Act.

This section may present a difficulty in construction, because section 13 of the Lunacy Act, 1890, *ante*, p. 170, refers to a person "not a pauper" and consequently such person may be and frequently is admitted direct into a licensed house, which house may not be licensed for the reception of paupers. *Semble*: The patient becomes a private patient on admission or before. See also notes to sections 13 and 27 of the Lunacy Act, 1890, *ante*, pp. 172, 188.

It has been decided in *Re Steneult*, an unreported case, that where it appears that a patient classified as a pauper has sufficient means to provide for his own maintenance as a private patient, he is absolutely entitled to be classified as a private patient, and to be discharged as directed by section 72 (2) of the Lunacy Act, 1890, on the application of a person qualified to direct his discharge in accordance with that enactment: *Law Journal*, vol. 29, p. 345.

4. (1.) Every pauper suffering from mental disease in a workhouse at the commencement of the principal Act, as to whom a report had before the commencement of the principal Act been made under section twenty-two of the Poor Law Amendment Act, 1867, may be detained in the workhouse against his will without an order under section twenty-four of the principal Act. Amendments of 53 & 54 Vict. c. 5, section 24. 30 & 31 Vict. c. 106.

This sub-section renders an order of a justice under section 24 of the Lunacy Act, 1890, unnecessary for the detention in a workhouse of a lunatic as to whom a report has been made before the 1st May, 1890, under section 22 of the Poor Law Amendment Act, 1867. These cases were numerous, and to obtain an order of a justice in every instance seemed both costly and superfluous, although it would have been requisite according to the strict letter of the principal Act.

(2.) The medical superintendent of an asylum provided under the Metropolitan Poor Act, 1867, shall not be required in any certificate under sub-section one of section twenty-four of the principal Act, or under this Act, to certify to the effect in sub-clause (c) of that sub-section mentioned, and upon the transfer 30 Vict. c. 6.

Section 4. from a workhouse to an asylum provided under the Metropolitan Poor Act, 1867, of a lunatic, with regard to whom a certificate or order under the said section twenty-four made while he was in the workhouse is in force, no further certificate or order shall be required for the detention of the lunatic in the asylum.

This sub-section relieves the medical superintendents of the Metropolitan Asylums for Imbeciles from the necessity of certifying under section 24 (1) of the Lunacy Act, 1890, that the accommodation in such asylums is sufficient for the proper care and treatment of the lunatics received therein, because these asylums are specially provided for lunatics only, and a lunatic would not be admitted unless the accommodation were sufficient. It provides also that upon the transfer of a lunatic from an ordinary workhouse to such an asylum, if an order or certificate made under section 24 of the Lunacy Act, 1890, whilst he was in the workhouse is in force with regard to such lunatic, no further order or certificate shall be necessary.

5. There shall be attached to every order made by a justice under section twenty-four of the principal Act the medical certificates on which such order is founded.

Medical certificates as to removal of lunatic from workhouse.

This section renders necessary the attachment to every order of a justice for the permanent detention of a lunatic in a workhouse under section 24 (3) of the Lunacy Act, 1890 (see Form 11 in the Second Schedule to that Act, p. 462), of the medical certificates on which it is founded under section 24 (4), *ante*, p. 184, thus rendering it easier for the master of the workhouse whose duty it is to keep such orders and certificates to keep them together and in order for the inspection of the Visiting Commissioners in Lunacy.

Section 27.
[Removal of lunatic from workhouse by order of justice.]

6. Where a workhouse is situate in a county which does not include the union to which the workhouse belongs, a summary reception order made by a justice of the county in which the workhouse is situate may order a lunatic in the workhouse to be received in any asylum, in which pauper lunatics chargeable to the union, to which the workhouse belongs, may legally be received.

In some cases a workhouse and the union to which it belongs are not in the same county. This led to lunatics being sent under section 27, sub-section 2 of the Lunacy Act, 1890, *ante*, from such a workhouse to the asylum of the county in which it was situate, instead of to the asylum for the county in which the union to which the workhouse belonged was situate. The manifest injustice resulting from this state of affairs is corrected by this section which enables a justice of the county in which the workhouse is situate to make an order for the removal of a pauper lunatic from the workhouse to the asylum for the county in which the union to which the workhouse belongs is situate. Section 68 of the Lunacy Act, 1890, *ante*, provides for the case of a union situate in more than one county.

7. Sub-section four of section thirty-eight of the principal Act is hereby repealed, and the following sub-section is substituted therefor:—

(4.) A reception order shall remain in force for a year after the date by this Act or by an order of the Commissioners appointed for it to expire, and thereafter for two years, and thereafter for three years, and after the end of such periods of one, two, and three years for successive periods of five years, if not more than one month nor less than seven days before the expiration of the period at the end of which, as fixed by this Act or by an order of the Commissioners under sub-section two, the order would expire, and of each subsequent period of one, two, three, and five years respectively, a special report of the medical officer of the institution or of the medical attendant of the single patient as to the mental and bodily condition of the patient with a certificate under his hand certifying that the patient is still of unsound mind and a proper person to be detained under care and treatment is sent to the Commissioners.

Section 7.
Section 38 (4).
[Duration of reception orders.]

As to this section, see section 38 of the Lunacy Act, 1890, *ante*, p. 197.

8. Section thirty-nine of the principal Act shall not apply to lunatics received under a removal order or to lunatics so found by inquisition.

Section 39.
[Reports after reception.]

9. (1.) In sub-section three (a) of section 55 of the principal Act the words “ or to travel in England ” shall be inserted after the word “ place.”

Section 55.
[Absence on trial or for health.]

This sub-section enlarges the powers of managers of registered hospitals and licensed houses for permitting the absence of private patients for their health, by enabling the managers to give leave, not only for proceeding to a specified place, but also for travelling in England. See section 55 (3) of the Lunacy Act, 1890, *ante*, p. 215.

(2.) In sub-section six of section fifty-five of the principal Act, for the words “ licensed by visitors ” shall be substituted the words “ licensed by justices,” and for the words “ the Commissioners or visitors ” shall be substituted the words “ such Commissioner or such two visitors.”

This sub-section corrects obvious clerical errors in the drafting of section 55 (6) of the principal Act, *ante*, p. 216.

10. In sub-section three of section fifty-six of the principal Act the words “ or permit the patient to be absent upon trial

Section 56 (3).

Section 10, for such period as may be thought fit " shall be added after the word " health " at the end of the sub-section.

[Absence of single patient on trial.]

There was formerly no power given to the person in charge of a single patient to permit his absence on trial. See section 56 of the Lunacy Act, 1890, *ante*, p. 217.

It must be clearly understood that leave of absence *on trial* and leave of absence *under proper control* are distinct. Applications when made for leave, should therefore show what nature of leave is required, to enable the office of the Board of Control, when sanctioning such absence, to send the appropriate form.

Section 61 (1).

[Removal by guardians of pauper lunatic in hospital or licensed house.]

11. In sub-section one of section sixty-one of the principal Act the words " to the workhouse of the union to which the lunatic is chargeable, or if the lunatic is chargeable to a county or borough, to the workhouse of the union from which he was sent to the hospital or licensed house " shall be inserted after the words " of the lunatic."

This section makes it clear that the power of removal conferred upon guardians of the poor and local authorities liable for the maintenance of pauper lunatics detained in hospitals and licensed houses by section 61 of the Lunacy Act, 1890, extends only to removal to the workhouse.

Hospitals may alter regulations.

12. The managing committee of every hospital may, with the approval of a Secretary of State, alter the regulations of the hospital.

See section 232 of the Lunacy Act, 1890, *ante*, p. 352.

Boroughs annexed to counties under s. 246 to contribute to expense of asylum.

13. (1.) Where under section two hundred and forty-six of the principal Act, a borough ceases to be a local authority under that Act, the borough shall for all purposes of that Act be annexed to and treated as part of the county in which the borough is situate, and if or so far as the borough has not contributed towards the expense of providing the asylum of the county, a sum to be paid by the borough towards the expenses already incurred in providing the asylum shall be fixed by agreement between the councils of the county and borough, or in default of agreement by an arbitrator appointed by the parties, or, if the parties cannot agree upon an arbitrator, by an arbitrator appointed by the Local Government Board. In fixing the sum to be paid by the borough, the borough shall be credited with any sums already contributed by the borough for lunacy purposes in excess of its legal liability; and the arbitrator shall take into consideration the amounts that may

have been paid by the borough for the reception or maintenance, **Section 13.**
in the asylum of the county, of the lunatics of the borough.

By section 246 of the Lunacy Act, 1890, where any borough specified in the Fourth Schedule to that Act had contracted under section 7 of the Lunatic Asylums Act, 1853, 16 & 17 Vict. c. 97, for the reception of the lunatics of the borough in the asylum of the county in which the borough is situate, it was enacted that the borough should cease to be a local authority under the Lunacy Act, 1890, and should be liable thenceforth to contribute to the county rate in respect of county lunatic asylums; and under section 23 of the Poor Law Amendment Act, 1867, as amended by section 14 of the Poor Law Amendment Act, 1868, and section 283 (4) of the Lunacy Act, 1890, the county could charge the borough a greater weekly sum not exceeding 14s. per week for each lunatic sent from the borough more than the amount chargeable for county lunatics. But under this sub-section the borough is for all purposes (including, therefore, the maintenance of its lunatics) to be treated as part of the county, and an equitable provision is added, following the precedent of section 131 of the Lunatic Asylums Act, 1853, 16 & 17 Vict. c. 97, by which the borough is to contribute a sum in respect of the cost of the building of the asylum to be agreed between the county and borough councils, or in default of agreement to be determined by arbitration. See also notes to the following sub-section.

(2.) Where a borough had before the passing of this Act, 51 & 52 Vict. by virtue of section eighty-six of the Local Government Act, c. 41. 1888, and the determination of any contract, become liable to contribute to the county rate of the county in respect of a lunatic asylum, this section shall apply to such borough as if it had immediately after the passing of this Act ceased under section two hundred and forty-six of the principal Act, to be a local authority.

This sub-section provides, in a similar way to the preceding sub-section, for the case of a borough which had, before the 29th March, 1890, come under the operation of section 86 (4) of the Local Government Act, 1888, being the enactment reproduced by section 246 of the Lunacy Act, 1890. There were two such boroughs, viz.: Dover and Maidstone. See *Howlett v. Maidstone*, [1891] 2 Q. B. 110; 60 L. J. Q. B. 570; 65 L. T. 448; 40 W. R. 116; 55 J. P. 549. See 55 J. P. 323, 564.

14. Any question relating to lunatic asylums or the maintenance of lunatics arising between any local authorities under the principal Act and any boroughs not being local authorities under that Act, and any visiting committees or any two or more of such parties respectively, may be referred to an arbitrator appointed by the parties, or if the parties cannot agree upon an arbitrator, by the Local Government Board.

Power to refer questions as to asylums to the court or to arbitration.

Section 14. This section was suggested by the use made by the court of the provisions of section 62 of the Local Government Act, 1888, to solve the difficulty which arose in *Howlett v. Maidstone* above cited.

NOTE.

S. 62 of 51 &
52 Vict. c. 41
applied.

15. The provisions of sub-sections five, six, and seven of section sixty-two of the Local Government Act, 1888, shall apply to every sum by virtue of this Act agreed to be paid or awarded by an arbitrator as if such sum had been agreed to be paid or awarded under section sixty-two of the Local Government Act, 1888.

This section gives effect to awards made under the preceding section.

The provisions of sub-sections (5), (6), and (7) of section 62 of the Local Government Act, 1888, are as follows:—

(5.) Any sum required to be paid for the purposes of adjustment, or of any award or order made by the arbitrator, may be paid out of the county or borough fund or out of such other special fund as the council, with the approval of the Local Government Board, may direct.

(6.) The payment of any capital sum required to be paid for the purposes of the adjustment, or of an agreement under this Act, or of any award or order made upon any arbitration under this Act, shall be a purpose for which a council may borrow under this Act, or in the case of a borough council under the Municipal Corporations Act, 1882, or any local Act, and such sum may be borrowed on the security of all or any of the funds, rates, and revenues of the council, and either by the creation of stock or in any other manner in which they are for the time being authorised to borrow, and such sum may be borrowed without the consent of the Treasury, or any other authority, so that it be repaid within such period as the Local Government Board may sanction by such method as is mentioned in Part IV. of this Act for paying off a loan, or if the sum is raised by stock under a local Act, by such method as is directed by that Act.

(7.) Any capital sum paid to any council for the purpose of any adjustment, or in pursuance of any order or award of an arbitrator under this Act, shall be treated as capital, and applied with the sanction of the Local Government Board, either in the repayment of debt, or for any other purpose for which capital money may be applied.

Amendment
of s. 254 of
53 & 54 Vict.
c. 5.

16. In sub-section two of section two hundred and fifty-four of the principal Act, there shall be added after the word “contracts” the words “for the purchase of lands and buildings and for the erection, restoration, and enlargement of buildings.”

This section makes it clear that no alteration of the previous law was intended to be effected by the extreme conciseness of the language used in section 254 (2) of the Lunacy Act, 1890, *ante*, p. 367.

Contracts by
town councils
and the sub-
scribers to a
hospital.

17. Where a contract between the council of a borough and the subscribers to a hospital for the reception of pauper lunatics into the hospital was subsisting on the twenty-sixth day of August, one thousand eight hundred and eighty-nine, such

contract, unless determined by the parties or one of them, shall be deemed to have continued in force since that date, and may be renewed subject to the same conditions and with the same consequences as if the contract had been entered into by a visiting committee on behalf of the borough. Section 17.

Section 269 (2) of the Lunacy Act, 1890, *ante*, saves and continues reception contracts subsisting on the 26th August, 1889, between visiting committees and registered hospitals, whilst section 269 (8) provided that a visiting committee should not otherwise enter into a reception contract with the subscribers to a hospital. But this section extends the saving to reception contracts subsisting on the like date between borough councils and registered hospitals.

18. The provisions of the Local Government Act, 1888, relating to the accounts of county councils and their officers, and to the audit of such accounts, shall apply to the accounts of every asylum belonging wholly or in part to a county council and of the visiting committee and officers thereof. Accounts of county asylums.

This section replaces section 279 of the Lunacy Act, 1890, *ante*, and makes it quite clear that the provisions of the Local Government Act, 1888, as to audit of county council accounts, apply also to the accounts of county asylums.

Incorporated Enactments.—The provisions of the Local Government Act, 1888, relating to the accounts of county councils, are contained in section 71, whereby it is enacted that—

(1.) The accounts of the receipts and expenditure of county councils shall be made up to the end of each local financial year, as defined by this Act [*i.e.*, the twelve months ending the 31st March (see section 73)], and be in the form for the time being prescribed by the Local Government Board.

(2.) The provisions of the Municipal Corporations Act, 1882, with respect to the return to the Local Government Board of the accounts of a council of a borough and to the accounts of the treasurer of the borough, and to the inspection and abstract thereof, shall apply to the accounts of a county council, and of the treasurer and officers of such council, and the said provisions respecting the return to the Local Government Board shall extend to the return to that Board of a printed copy of the abstract of the said accounts.

(3.) The accounts of a county council, and of the county treasurer and officers of such council, shall be audited by the district auditors appointed by the Local Government Board in like manner as accounts of an urban authority and their officers under sections 247 and 250 of the Public Health Act, 1875, and those sections and all enactments amending them or applying to audit by district auditors, including the enactments imposing penalties and providing for the recovery of sums, shall apply in like manner as if, so far as they relate to an audit of the accounts of an urban authority and the officers of such authority, they were herein re-enacted with the necessary

Section 18. modifications: and, accordingly, all ratepayers and owners of property in the county shall have the like rights, and there shall be the same appeal, as in the case of such audit. Provided that the First Schedule to the District Auditors Act, 1879, shall be modified in manner described in the Second Schedule to this Act.

NOTE.

The provisions of the Municipal Corporations Act, 1882, 45 & 46 Vict. c. 50, referred to in the second sub-section above cited, are contained in sections 27, 28, and 233 of that Act, and are as follows:—

Section 27 (2.).—After the audit of the accounts for the second half of each financial year the treasurer shall print a full abstract of his accounts for that year.

Section 28 (1.).—The town clerk shall make a return to the Local Government Board of the receipts and expenditure of the municipal corporation for each financial year.

(2.) The return shall be made for the financial year ending on the 25th March, or on such other day as the Local Government Board, on the application of the council, from time to time prescribe.

(3.) The return shall be in such form and contain such particulars as the Local Government Board from time to time direct.

(4.) The return shall be sent to the Local Government Board within one month after the completion of the audit for the second half of each financial year.

(5.) If the town clerk fails to make any return required under this section, he shall for each offence be liable to a fine not exceeding twenty pounds, to be recovered by action on behalf of the Crown in the High Court.

(6.) The Local Government Board shall in each year prepare an abstract of the returns made in pursuance of this section, under general heads, and it shall be laid before both Houses of Parliament.

Section 233 (3.).—The treasurer's accounts shall be open to the inspection of the council, and a member of the council may make a copy thereof or take an extract therefrom.

(4.) The abstract of the treasurer's accounts shall be open to the inspection of all ratepayers of the borough, and copies thereof shall be delivered to a ratepayer on payment of a reasonable price for each copy.

* * * * *

(6.) A document directed by this Act to be open to inspection shall be so open at any reasonable time during the ordinary hours of business, and without payment, unless it is otherwise expressed.

(7.) If a person having the custody of any document in this section mentioned—

(a.) Obstructs any person authorised to inspect the same in making such inspection thereof as in this section mentioned; or

(b.) Refuses to give copies or extracts to any person entitled to obtain the same under this section;

he shall, on summary conviction, be liable to a fine not exceeding five pounds.

Sections 247 and 250 of the Public Health Act, 1875, 38 & 39 Vict. c. 55, referred to in section 71 (3) of the Local Government Act, 1888, above cited, are as follows:—

Section 247.—Where an urban authority are not the council of a borough, the following regulations with respect to audit shall be observed ; namely, Section 18.

—
NOTE.

(1.) The accounts of the receipts and expenditure under this Act of such authority shall be audited and examined once in every year as soon as can be after the 25th day of March, by the auditor of accounts relating to the relief of the poor for the union in which the district of such authority or the greater part thereof is situate, unless such auditor is a member of the authority whose accounts he is appointed to audit, in which case such accounts shall be audited by such auditor of any adjoining union as may from time to time be appointed by the Local Government Board :

(2.) There shall be paid to such auditor in respect of each audit under this Act such reasonable remuneration, not being less than two guineas for every day in which he is employed in such audit, as such authority from time to time appoint, together with his expenses of travelling to and from the place of audit :

(3.) Before each audit such authority shall, after receiving from the auditor the requisite appointment, give at least fourteen days' notice of the time and place at which the same will be made, and of the deposit of accounts required by this section, by advertisement in some one or more of the local newspapers circulated in the district ; and the production of the newspaper containing such notice shall be sufficient proof of such notice on any proceeding whatsoever :

(4.) A copy of the accounts duly made up and balanced, together with all rate books, account books, deeds, contracts, accounts, vouchers, and receipts mentioned or referred to in such accounts shall be deposited in the office of such authority, and be open, during office hours thereat, to the inspection of all persons interested for seven clear days before the audit, and all such persons shall be at liberty to take copies of or extracts from the same, without fee or reward ; and any officer of such authority duly appointed in that behalf neglecting to make up such accounts and books, or altering such accounts and books, or allowing them to be altered when so made up, or refusing to allow inspection thereof, shall be liable to a penalty not exceeding five pounds :

(5.) For the purpose of any audit under this Act, every auditor may, by summons in writing, require the production before him of all books, deeds, contracts, accounts, vouchers, receipts, and other documents and papers which he may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, receipts, documents, or papers to appear before him at any such audit or any adjournment thereof ; and to make and sign a declaration as to the correctness of the same ; and if any such person neglects or refuses so to do, or to produce any such books, deeds, contracts, accounts, vouchers, receipts, documents, or papers, or to make or sign such declaration, he shall incur for every neglect or refusal a penalty not exceeding forty shillings ; and if he falsely or corruptly makes or signs any such declaration, knowing the same to be untrue in any material particular, he shall be liable to the penalties inflicted on persons guilty of wilful and corrupt perjury :

(6.) Any ratepayer or owner of property in the district may be present at the audit, and may make any objection to such accounts before the

Section 18. auditor; and such ratepayers and owners shall have the same right of appeal against allowances by an auditor as they have by law against disallowances:

NOTE.

(7.) Any auditor acting in pursuance of this section shall disallow every item of account contrary to law, and surcharge the same on the person making or authorising the making of the illegal payment, (a) and shall charge against any person accounting the amount of any deficiency or loss incurred by the negligence or misconduct of that person, or of any sum which ought to have been, but is not brought into account by that person, and shall in every such case certify the amount due from such person, and on application by any party aggrieved shall state in writing the reasons for his decision in respect of such disallowance or surcharge, and also of any allowance which he may have made:

(8.) Any person aggrieved by disallowance made may apply to the Court of Queen's Bench for a writ of *certiorari* to remove the disallowance into the said court, in the same manner and subject to the same conditions as are provided in the case of disallowances by auditors under the laws for the time being in force with regard to the relief of the poor; and the said court shall have the same powers with respect to allowances, disallowances, and surcharges under this Act as it has with respect to disallowances or allowances by the said auditors; or in lieu of such application any person so aggrieved may appeal to the Local Government Board, which Board shall have the same powers in the case of the appeal as it possesses in the case of appeals against allowances, disallowances, and surcharges by the said poor law auditors:

(9.) Every sum certified to be due from any person by an auditor under this Act shall be paid by such person to the treasurer of such authority within fourteen days after the same has been so certified unless there is an appeal against the decision; and if such sum is not so paid, and there is no such appeal, the auditor shall recover the same from the person against whom the same has been certified to be due by the like process and with the like powers as in the case of sums certified on the audit of the poor rate accounts, and shall be paid by such authority all such costs and expenses, including a reasonable compensation for loss of time incurred by him in such proceedings, as are not recovered by him from such person:

(10.) Within fourteen days after the completion of the audit the auditor shall report on the accounts audited and examined, and shall deliver such report to the clerk of such authority, who shall cause the same to be deposited in their office, and shall publish an abstract of such accounts in some one or more of the local newspapers circulated in the district.

Orders of the Local Government Board.—The Local Government Board have issued two orders under the foregoing enactments, one dated September 15, 1892, prescribing the form of the financial statement to be submitted to the district auditor by the visiting committees of county

(a) The auditor has no power under this section to surcharge any payment which is not illegal, but merely carried to the wrong account: *Reg. v. Dolby*, [1892] 2 Q. B. 301; 61 L. J. Q. B. 809; 67 L. T. 296; 56 J. P. 599.

lunatic asylums, except Lancaster (St. R. & O., 1892, p. 226), and the other **Section 18.**
 dated March 24, 1893, prescribing the form of financial statement to be
 submitted to the district auditor by the Lancashire Asylums Board.
 (St. R. & O., 1893, p. 66 *n.*) Both these orders are set out, *post*, pp. 599—
 616 and 616—635.

NOTE.

19. (1.) Where a lunatic in a hospital or licensed house becomes a pauper, the manager of the hospital or house may, after having given notice to the authority liable for the maintenance of the lunatic of his intention so to do, apply to a justice of the peace having jurisdiction in the place where the hospital or house is situate for an order for the removal of the lunatic, and such justice may, if he thinks fit, make an order for the removal of the lunatic to an institution for lunatics to which pauper lunatics for whose maintenance the authority is liable may legally be sent and for the reception of the lunatic therein, and such institution shall be named in the order, and the manager of the hospital or house shall forthwith cause the lunatic to be removed to the institution named in the order. In the case of such removal the original reception order shall remain in force, and shall authorise the classification of the lunatic as a pauper lunatic in the institution to which he is removed.

It should be stated upon such order that notice has been given to the authority liable for the maintenance of the lunatic.

As to the jurisdiction of justices, see section 27 of the Poor Law Amendment Act, 1868, 30 & 31 Vict. c. 106, set out in the notes, *ante*, p. 392.

As to the authority liable for the maintenance of the lunatic, see section 286 of the Lunacy Act, 1890, *ante*, p. 393. See also 56 J. P. 108.

(2.) The costs of obtaining an order under this section and of the removal of the lunatic shall be repaid to the manager who obtains the order by the authority liable for the maintenance of the lunatic, and any justice having jurisdiction in the place where the hospital or house from which the lunatic was removed is situate shall have power to fix the amount of such costs and to order such authority to repay the same. The provisions of section three hundred and fourteen of the principal Act shall apply to every such order for the repayment of costs.

See note to preceding sub-section. See also section 314 of the Lunacy Act, 1890, *ante*, p. 425.

Section 20. 20. Where a boarder is received into a licensed house not within the immediate jurisdiction of the Commissioners in Lunacy, or into a registered hospital, notice of his reception shall be given to the Commissioners in Lunacy within twenty-four hours of his reception by the manager of the licensed house or hospital into which such boarder has been received.

Notice of reception of boarders into licensed houses and hospitals.

If any manager fails to comply with the provisions of this section he shall, for each day or part of a day during which the default continues, be liable to a penalty not exceeding five pounds.

If the Commissioners after inquiry are of opinion that the mental state of any boarder received into a licensed house or hospital is such as to render him unfit to remain as a boarder, they may order the manager of the licensed house or hospital either to remove such boarder or to take steps to obtain an order for his reception as a patient into the licensed house or hospital.

Any manager failing to comply with an order of the Commissioners in Lunacy made pursuant to this section shall, for each day during which the default continues, be liable to a penalty not exceeding five pounds.

By Rule 8 (6), Commissioners' Rules, June 26, 1895, *post*, p. 528, the notice of admission of a boarder is to be sent to the Board of Control, in the case of every hospital or licensed house, and it is no longer confined to cases where the boarder is received into a licensed house, outside the immediate jurisdiction of the Board.

Order for Removal or Certificates.—The detention of persons certifiably insane as voluntary boarders in hospitals and licensed houses is illegal under section 315 (1) of the Lunacy Act, 1890, *ante*, and exposes the manager to risk of a prosecution apart from this section which was intended merely to better enable the Commissioners to enforce the existing law. See 45th Rep., p. 65.

Complaints as to control of patients.

21. If complaints are made by persons resident in the neighbourhood of any hospital that the patients are allowed to go outside the hospital without a sufficient number of officers to control them, or that the patients are allowed to wander at large without any control, the Commissioners may, if they are satisfied that there are *primâ facie* grounds for such complaints, inquire into the same, and may make such order in relation thereto as the Commissioners think just, and the superintendent

of any hospital disobeying any such order shall be guilty of a **Section 21.**
misdemeanor.

With reference to this section, which was inserted in the Bill during its passage through the Standing Committee of the House of Lords, on the motion of Lord Thring, the Commissioners in Lunacy observed that they would always be reluctant to adopt any course which would tend to curtail the proper exercise of patients, that being a part of treatment to which the Commissioners attach much importance: 46th Rep., p. 84.

22. The provisions of the principal Act for the payment of Payment of expenses as to lunatics becoming paupers. expenses in relation to pauper lunatics shall be applicable with respect to lunatics in institutions for lunatics who become paupers.

See Part X., sections 283—314, of the Lunacy Act, 1890, *ante*, pp. 390—425.

23. In Form 1 in the Second Schedule to the principal Act Form of petition amended. there shall be substituted for the word “dated” the words “Date of presentation of the petition.”

24. (1.) A justice of the peace specially appointed under Amendment as to judicial authority under 53 & 54 Vict. c. 5. section ten of the principal Act may exercise the powers of the judicial authority under that Act, notwithstanding that he may not have jurisdiction in the place where the lunatic or alleged lunatic is.

Under section 9 (1) of the Lunacy Act, 1890, 53 & 54 Vict. c. 5, *ante*, it was formerly necessary that the justice of the peace, county court judge, or magistrate exercising the powers of the judicial authority under that Act should respectively have jurisdiction in the place where the lunatic was.

(2.) A judicial authority may, if he considers it expedient, [Transfer of petitions for reception orders.] transfer a petition for a reception order presented to him to any other judicial authority who is willing to receive the same, whether such other judicial authority has or has not jurisdiction in the place where the lunatic is, and such other judicial authority shall have the same powers as the judicial authority to whom the petition was presented would have had.

(3.) A reception order made after the passing of this Act shall [Reception orders not made by special justices.] not be invalid on the ground only that the justice of the peace who signed the order shall appear to have not been duly appointed under section ten of the principal Act, if the order is within fourteen days after its date approved and signed by a judicial authority.

Section 24. In some cases it is found that the powers of a judicial authority under the principal Act are exercised by justices not specially appointed for that purpose. This sub-section is intended to meet such cases without the necessity for proceeding all over again *de novo* before a specially appointed justice.

NOTE.

[Special appointment may include all justices.]

(4.) The appointment at any time before or after the passing of this Act by the justices of a county or quarter sessions borough of justices to exercise the powers of the judicial authority under the principal Act shall not be invalid on the ground only that the appointment includes all the justices of the county or borough.

This sub-section was passed to remove any doubt as to the validity of the course taken in some counties and boroughs where the justices appointed the whole of their body to exercise the powers of the judicial authority.

[Justices specially appointed under old Act.]

(5.) Every justice appointed under section ten of the Lunacy Acts Amendment Act, 1889, shall be deemed to have had power to exercise the jurisdiction conferred upon the judicial authority under the principal Act, and the jurisdiction of such justices and of any justices appointed or hereafter to be appointed under the principal Act shall be deemed to have continued and shall continue until a fresh appointment is made.

Power to confer powers of justice of the peace on chairman of board of guardians.

25. If for the due administration of the Lunacy Acts, 1890 and 1891, in any union it appears to the Lord Chancellor desirable, he may by writing under his hand empower the chairman of the board of guardians to sign orders for the reception of persons as pauper lunatics in institutions for lunatics, and every order so signed shall have effect as if made by a justice of the peace under the principal Act.

It is to be observed that the chairman of the guardians will have no power under section 24 (3) of the Lunacy Act, 1890, *ante*, to make orders for the permanent detention of pauper lunatics in the workhouse, nor to make reception orders under section 13, *ante*. It would seem, however, that he may make orders as to expenses under section 285, *ante*, in cases where he can make reception orders under this section: see 56 J. P. 15.

Amendments in procedure upon inquisitions.

26. (1.) The provisions of section ninety-four sub-section two of the principal Act as to the trial of issues in the High Court, shall extend to all inquisitions, and the Masters may, for the purpose of inquisitions held before them, exercise the powers by that sub-section conferred upon the judge who tries the issue.

(2.) The Masters may make orders for the attendance of an alleged lunatic at such time and place as the order directs, for examination by the Masters or a medical practitioner, and such order may be enforced in the same way as an order of a Judge of the High Court. Section 26.

27. (1.) Subject to rules in lunacy, the jurisdiction of the Judge in Lunacy as regards administration and management may be exercised by the Masters, and every order of a Master in that behalf shall take effect unless annulled or varied by the Judge in Lunacy. Procedure as to Chancery lunatics.

A Master in Lunacy has power under this section, to authorise the committee of a lunatic to bring an action in the name of the lunatic: *In re Hinchcliffe* (No. 2), C. A. (1895), W. N. 147 (6).

The power to appoint a receiver is clearly a power relating to management and administration, and, although not specially mentioned in the group of sections so headed, is within the general words with which section 116 commences. This being so, the power can be exercised by a Master, and it need not be exercised by the Judge in person. Soon after the Rules in Lunacy, 1892, had been made, a question arose whether a Master had jurisdiction to make a vesting order under sections 133 *et seq.* of the Lunacy Act, 1890; and, after carefully examining the Acts and Rules, all the members of the Court of Appeal came to the conclusion that he could, and such orders have ever since been made accordingly. Per LINDLEY, L.J., *Re Browne*, [1894] 3 Ch. 412; 63 L. J. Ch. 729. See now the Lunacy Act, 1908, *post*.

(2.) The power to make rules under section three hundred and thirty-eight, sub-section (2), of the principal Act shall extend to all applications under the principal Act and this Act, and also to applications in the Chancery Division of the High Court in cases where such applications are also made under the principal Act.

In accordance with this sub-section, the words "in lunacy" in section 338 (2) of the Lunacy Act, 1890, *ante*, are repealed by section 29 and the schedule of this Act, *post*.

(3.) The power conferred by section one hundred and forty-eight of the principal Act to make rules fixing per-centage and fees shall be deemed to extend to all proceedings under the principal Act or this Act, whether relating to lunatics so found by inquisition or to any other person in relation to whom or to whose property an order under the said Acts has been or may be made. Provided that in the case of lunatics under the

Section 27. protection of the Judge in Lunacy by virtue of the transmission of the record of an inquisition from Ireland and its entry of record in the High Court, and in the case of persons residing out of England and declared lunatic according to the laws of their place of residence, no per-centage shall be levied except upon income arising from property within the jurisdiction of the Judge in Lunacy and administered under his direction.

Irish Lunatics.—As to transmission of the record of an inquisition from Ireland, see section 107 of the Lunacy Act, 1890, *ante*, p. 249.

Lunatics residing Abroad.—As to persons residing out of the jurisdiction and declared lunatic, see section 134 of the same Act, *ante*, p. 287, and Rules in Lunacy, 1892, Rule 35, *post*, p. 642.

(4.) The provisions of section one hundred and sixteen, sub-section two, of the principal Act shall apply to the persons named in sub-section one (*d.*) of the same section, though not lunatics.

Section 116 (2) of the principal Act was repealed by section 1 of the Lunacy Act, 1908, *post*.

Definition of
seised and
possessed.

28. In the principal Act, the word “seised” shall include any vested estate for life or of a greater description, and shall extend to estates at law and in equity in possession or in futurity in any lands; and the word “possessed” shall include any vested estate less than a life estate at law or in equity in possession or in expectancy in any lands.

These words only occur in section 135 (1) of the Lunacy Act, 1890, *ante*. These definitions are taken from section 2 of the Trustee Act, 1850, 13 & 14 Vict. c. 60. Compare the definition of the word “possessed” in section 50 of the Trustee Act, 1893, 56 & 57 Vict. c. 53.

It has been held under section 2 of the Trustee Act, 1850, that the word “seised” as used in that Act does not apply to leaseholds: *Re Mundel* (1860), 8 W. R. 683.

Repeal.

29. (*The enactments in the schedule are hereby repealed.*)

This section was repealed by the Statute Law Revision Act, 1908.

(THE SCHEDULE.)*

ENACTMENTS REPEALED.

Session and chapter.	Short Title.	Extent of Repeal.
53 & 54 Vict. c. 5.	<i>The Lunacy Act, 1890</i> ...	<p><i>Section nine, sub-section one, from "having" to the end of the sub-section.</i></p> <p><i>Section ten, in sub-section one, the words "within the county and borough respectively" and in sub-section four the words "within the same" occurring twice.</i></p> <p><i>Section thirteen, sub-section two, from "within" to "jurisdiction."</i></p> <p><i>Section twenty-four, sub-section six, from "that a pauper" to "asylum" where that word next occurs.</i></p> <p><i>Section sixty-two.</i></p> <p><i>Section ninety-nine the words "with a jury."</i></p> <p><i>Section one hundred and forty-nine.</i></p> <p><i>Section two hundred and forty-six, from "subject" to "an asylum."</i></p> <p><i>Section two hundred and seventy-nine.</i></p> <p><i>Section three hundred and thirty-eight, sub-section two, the words "in lunacy."</i></p> <p><i>The 2nd Schedule, Form 13.</i></p> <p><i>The 4th Schedule, the references to "Dover" and "Maidstone" repealed as from the commencement of the Lunacy Act, 1890.</i></p>

* Schedule repealed by the Statute Law Revision Act, 1908.

THE LUNACY ACT, 1908.

8 EDW. 7, CH. 47.

A.D. 1908. *AN ACT to amend the Lunacy Acts, 1890 and 1891.*

[21st December, 1908.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Extension to
quasi-com-
mittees of
powers of
committees
with respect
to manage-
ment of pro-
perty.
53 & 54 Vict.
c. 5.

1. In the case of any of the persons mentioned in sub-section (1) of section one hundred and sixteen of the Lunacy Act, 1890, not being a lunatic so found by inquisition, any powers which, if such person were a lunatic so found by inquisition, could be exercised by the committee of the estate, may be exercised by such person in such manner, and with or without security, as the Judge in Lunacy or, subject to Rules in Lunacy, a Master may direct, and any such order may confer on the person therein named authority to do any specified act or exercise any specified power, or may confer a general authority to exercise until further order all or any of such powers without further application to the Judge or a Master, and sub-section (3) of the said section shall apply to every person so appointed, and sub-section (2) of the said section shall be repealed.

By this section the powers of a Committee with reference to a person of unsound mind not so found are extended to the Receiver or quasi-committee of a person so found. See notes, *ante*, to section 116 of the Lunacy Act of 1890, p. 260.

Amendment
of section 135
of the Lunacy
Act, 1890.

2. The following sub-section is substituted for sub-section three of section one hundred and thirty-five of the Lunacy Act, 1890 :—

“(3.) An order under sub-sections one and two shall have the same effect as if the lunatic had been sane,

and, if solely seised, possessed, or entitled as aforesaid, had executed, or, if jointly seised, possessed, or entitled as aforesaid with any other person or persons, he and such other person or persons had executed a deed conveying the land for the estate named in the order, or releasing or disposing of the contingent right.”

A.D. 1908.

3. Every order of the Masters shall be subject to appeal in the manner provided by Rules in Lunacy, and orders of the Judge in Lunacy and Masters shall be enforceable in manner provided by those rules, which may confer on the Judge and Masters any of the powers exercisable by the High Court or the Judges or Masters thereof for the purpose of enforcing orders of the High Court.

Orders of
Judge and
Masters in
Lunacy.

4. In case of the illness or unavoidable absence of a Master, the Lord Chancellor may appoint a barrister of not less than ten years' standing to be his deputy during such illness or absence, and such deputy shall, while his appointment remains in force, have all the powers and perform all the duties of a Master.

Power to
appoint
Deputy-
Master.

5. This Act may be cited as the Lunacy Act, 1908, and shall be read as one with the Lunacy Acts, 1890 and 1891, and those Acts and this Act may be cited together as the Lunacy Acts, 1890 to 1908.

Short title,
&c.

THE LUNACY ACT, 1911.

1 & 2 GEO. 5, CH. 40.

A.D. 1911. *AN ACT to provide for the appointment of two additional Commissioners in Lunacy and to transfer the power of making Vesting Orders from the Judge in Lunacy to the High Court.*
[16th December, 1911.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Transfer of powers as to vesting orders from Judge in Lunacy to High Court.
53 & 54 Vict. c. 5.

1. The powers of the Judge in Lunacy under sections one hundred and thirty-five to one hundred and forty-three of the Lunacy Act, 1890, as amended by any subsequent enactment, to make such vesting and other orders as are in those sections mentioned shall except so far as they relate to lunatic mortgagees, not being also trustees, be transferred to, and, subject to rules of the Supreme Court, be exercisable by, the High Court, and, except as aforesaid, those sections as so amended shall have effect accordingly as if for references to the Judge in Lunacy there were substituted references to the High Court.

Short title.

2. This Act may be cited as the Lunacy Act, 1911, and the Lunacy Acts, 1890 to 1908, and this Act may be cited together as the Lunacy Acts, 1890 to 1911.

Appointment of two additional Commissioners.

3. The number of paid Commissioners in Lunacy shall be increased by two, and for that purpose the Lord Chancellor may appoint two persons to be Commissioners in Lunacy, and the provisions of the Lunacy Act, 1890, with respect to the qualification of Commissioners shall apply to any Commissioner appointed under this section.

See now the Mental Deficiency Act, 1913, section 22, *post*, p. 780.

THE LANCASHIRE COUNTY (LUNATIC ASYLUMS AND OTHER POWERS) ACT, 1891.

54 & 55 VICT. C. XX.

INTRODUCTION.

This statute is here introduced as the proper complement of the Lunacy Acts, 1890 and 1891.

The following brief notice of its import and effect is taken from the 46th Annual Report of the Commissioners in Lunacy, ^[Import of Act.]
p. 84 :—

“ Under the Local Government Act, 1888, the four asylums at Lancaster, Whittingham, Rainhill, and Prestwich, became vested in the county council for Lancashire, subject to certain rights of the fifteen county boroughs of Barrow-in-Furness, Blackburn, Bootle, Bolton, Burnley, Bury, Liverpool, Manchester, Oldham, Preston, Rochdale, Salford, St. Helen's, Stockport, and Wigan, which had contributed to the cost of building and furnishing those asylums, as to representation on the asylums visiting committee, and as to the use of the asylums.

“ This arrangement was superseded by the Lancashire County (Lunatic Asylums and other Powers) Act, 1891, which provides, amongst other matters, for,—

“ (1.) The constitution for the entire county of a Lunatic Asylums Board, consisting of representatives of the county council, and of the councils of the fifteen county boroughs above mentioned (section 3). ^[Provisions of Act.]

“ (2.) The transfer of the existing county lunatic asylums to such Board (section 15), with the power of managing them on behalf of the county and county boroughs, and of providing further asylum accommodation, if and when required (section 21).

[Provisions
of Act.]

“(3.) The appointment of separate visiting committees for each asylum (section 13).

“(4.) The adaptation of the Lunacy Acts to the provisions of this Act (sections 13, 22).

“Provision is also made (section 36) for enabling any borough in the county which should thereafter be constituted a county borough, to be represented on the Board, and to be treated as a county borough for the purposes of, and as if it had been named in the Act.

“On the other hand, the council of any of the county boroughs is empowered to withdraw, in the manner therein described, from the operation of the Act (section 37).

“The borough of Blackburn has availed itself of the latter power, and is about to build a separate asylum for itself.”

The “other powers” referred to in the short title of the Act related to the Lancaster Annual General Sessions, and to the purchase of Irlam Toll bar, and since they have nothing to do with the subject of lunacy, such parts of the Act as relate thereto are hereinafter omitted.

It should be observed that, although this Act is classified amongst local and personal Acts, it is enacted by section 9 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, that every Act passed after the year 1850, whether before or after the commencement of this Act (1st January, 1890), shall be a public Act and shall be judicially noticed as such, unless the contrary is expressly provided by the Act. Moreover, by section 39 of the same Act in this Act, the expression “Act” shall include a local and personal Act and a private Act.

CHAPTER XX.

AN ACT to constitute a Lunatic Asylums Board for the county palatine of Lancaster and to transfer the existing County Pauper Lunatic Asylums to such Board, to repeal the Lancaster Annual General Sessions Act, and for other purposes.

[11th May, 1891.]

Preamble. WHEREAS before the passing of the Local Government Act 1888
 51 & 52 Vict.
 c. 41. the justices of the peace for the county palatine of Lancaster
 16 & 17 Vict.
 c. 97. had under and by virtue of the Lunatic Asylums Act 1853 and other statutes provided in and for the said county the following pauper lunatic asylums namely the Lancaster Asylum at

Lancaster the Whittingham Asylum near Preston the Rainhill Asylum near Liverpool and the Prestwich Asylum near Manchester (which asylums are hereinafter referred to as "the existing county lunatic asylums"):

Preamble.

And whereas the existing county lunatic asylums are under and by virtue of the Local Government Act 1888 now vested in the County Council of Lancashire :

And whereas each of the county boroughs situate in the said county palatine and the county borough of Stockport which is situate partly in the said county and partly in the County of Chester has contributed to the cost of building and furnishing the existing county lunatic asylums :

And whereas by sections one hundred and sixty-nine and two hundred and forty-four of the Lunacy Act 1890 (re-enacting similar provisions of the Local Government Act 1888 sections thirty-two and eighty-six) it is enacted to the effect that where a county borough has contributed to the cost of a county asylum the council of the borough may appoint to be members of the visiting committee of the asylum such number of members of the council as may be agreed or in default of agreement be determined by the Commissioners appointed under the said Local Government Act and also that the existing liability of a county borough to contribute shall continue until a new arrangement is made and that a new arrangement may be made between the county council and all the borough councils concerned and that if any council desires to make a new arrangement and any or all of the other councils refuse to agree to the same the matter shall be referred to the said Commissioners :

And whereas differences having arisen between the Lancashire County Council and the councils of the said county boroughs or some of them respecting the contributions of the county boroughs and their representation on the visiting committee negotiations took place and at a conference held at Preston in the month of March one thousand eight hundred and ninety a scheme was submitted for the constitution of a representative asylums board and the transfer to such board of all the existing county lunatic asylums with power to manage them on behalf of the county and the county boroughs and a temporary arrangement was also submitted providing for an increase of contributions by the county boroughs for a term of three years or until the asylums board should be constituted by Parliament :

Preamble. And whereas the conference passed a resolution approving the scheme and temporary arrangement and that resolution has since been approved by the county council and by the councils of the county boroughs :

And whereas pending the constitution of such board application was made to the Commissioners under the Local Government Act 1888 for an order to give effect to the terms of the said temporary arrangement :

And whereas by an order dated the twentieth day of August one thousand eight hundred and ninety the Commissioners ordered—

- (i.) That after the first day of November one thousand eight hundred and ninety the number of members of the visiting committee of the existing county lunatic asylums should be eighty-seven of which thirty-eight should be appointed by the county council and forty-nine by the councils of the county boroughs as therein mentioned ;
- (ii.) That the county treasurer should add to the amount ascertained by him to be the aggregate amount according to the arrangements then in force of contributions by the county boroughs for each of the financial years ending the thirty-first day of March one thousand eight hundred and ninety-one one thousand eight hundred and ninety-two and one thousand eight hundred and ninety-three the sum of four thousand pounds which together with the ascertained amount should be the total sum to be contributed by the county boroughs ;
- (iii.) That the contribution to be made by the county council should be the amount which under the arrangements then in force the county council would be liable to pay less the said sum of four thousand pounds ;
- (iv.) That the total sum to be contributed by the county boroughs should be apportioned among them in the same manner as their contributions under the arrangements then in force were apportioned ;
- (v.) That as soon as an asylums board should have been constituted by Act of Parliament the provisions of the order as to the number of members of the visiting committee to be appointed by the councils of the

county boroughs and as to their contributions should cease and determine but otherwise should remain in force for three years from the first day of April one thousand eight hundred and ninety : Preamble.

And whereas since the said temporary arrangement was made the county borough of Manchester has been extended by the addition of a portion of the area of the administrative county of Lancaster and the rateable value of that portion is estimated to be about three hundred and fifty thousand pounds :

And whereas it would be of local and public advantage to constitute a county lunatic asylums board of representatives of the county council and of the councils of the county boroughs and to transfer the existing county lunatic asylums to such board and to invest the board with the power of managing them on behalf of the county and county boroughs and of providing further asylum accommodation (if required) and to make such financial and other provisions as this Act contains :

And whereas the objects of this Act cannot be attained without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

PART I.—PRELIMINARY.

1. This Act may be cited as the Lancashire County (Lunatic Asylums and other Powers) Act 1891 and shall (save as is otherwise expressly provided) come into operation on the first day of November one thousand eight hundred and ninety-one which date is hereinafter referred to as the commencement of this Act. Section 1.
Short title and commencement.

2. In this Act unless the context otherwise requires—
“Existing” means existing at the date of the commencement of this Act : Interpretation of terms.

“Entire county” means the administrative county of Lancaster as constituted by the Local Government Act 1888 together with the county boroughs named in the First Schedule to this Act :

“County” means the administrative county of Lancaster as constituted by the Local Government Act 1888 :

Section 2. "County Council" means the county council of the said administrative county :

"County boroughs" means the boroughs named in the First Schedule to this Act :

PART II.—LUNATIC ASYLUMS BOARD.

Establishment of Asylums Board.

Constitution of Board. 3. There shall be in and for the entire county a lunatic asylums board constituted of thirty-eight representatives of the county and of forty-nine representatives of the county boroughs.

Incorporation of Board. 4. (1.) The Board thus constituted shall be a body corporate by the name of the Lancashire Asylums Board (in this Act called "the Board") with perpetual succession and a common seal and with power to hold land for the purposes of their constitution without any licence in mortmain and to dispose of land.

In this respect the Board resemble a local authority under the Lunacy Act, 1890, and differ from a visiting committee under that Act.

[Board may act notwithstanding vacancies.] (2.) No act or proceeding of the Board or of any committee appointed by the Board shall be questioned on account of any vacancy in their body.

Compare section 171 (2) of the Lunacy Act, 1890, *ante*, p. 310, and section 22 (4) of the Municipal Corporations Act, 1882, 45 & 46 Vict. c. 50, as incorporated by section 175 (1), of the Lunacy Act, 1890, *ante*, p. 311.

Annual election of members by county councils. 5. (1.) The county council at their quarterly meeting in November in the year one thousand eight hundred and ninety-one and in every subsequent year shall elect thirty-eight of their body to be members of the Board.

As to the November quarterly meeting, see section 75 of the Local Government Act, 1888, 51 & 52 Vict. c. 41, and section 22 and rule 2 of the Second Schedule of the Municipal Corporations Act, 1882, 45 & 46 Vict. c. 50.

As to altering the number of representatives, see section 35, *post*, p. 511.

[Annual elections by county boroughs.] (2.) The council of each of the county boroughs at their quarterly meeting in November one thousand eight hundred and ninety-one and in every subsequent year shall elect the number of persons (who may or may not be members of the council)

specified opposite to the name of their borough in the First Schedule to this Act to be members of the Board. Section 5.

As to the November quarterly meeting, see section 22, and rule 2, of the Second Schedule of the Municipal Corporations Act, 1882, 45 & 46 Vict. c. 50.

As to altering the number of representatives, see section 35, *post*, p. 511.

(3.) The town clerk of each county borough shall return the names of the members elected by his council in the case of the first election to the clerk of the county council and in the case of subsequent elections the names of the members elected shall be returned to the clerk of the Board by the clerk of the county council and the town clerks respectively. [Return of members elected.]

(4.) Members of the Board shall come into office on their election and shall hold office until the next ensuing election and shall be re-eligible. [Term of office.]

In respect of length of office, members of the Board differ from members of a visiting committee, see section 172 of the Lunacy Act, 1890, *ante*, p. 310.

6. A member of the Board shall not be interested either in his own name or in the name of any other person in any contract entered into or work done for the Board and shall not derive any profit or emolument whatsoever from the funds of the county lunatic asylums. Members not to be interested in contracts, &c.

This provision shall not extend to any interest which a member of the Board may have by reason of his being a shareholder of a company which has entered into any contract with or done any work for the Board but he shall not vote in respect of any such contract or work.

Compare section 174 of the Lunacy Act, 1890, *ante*, p. 311.

7. A member of the Board elected by the county council who ceases to be a member of the county council ceases thereupon to be a member of the Board. Disqualification of member.

By section 1 (2) of the County Councils (Elections) Act, 1891, 54 & 55 Vict. c. 68, the county councillors in office retire together on the 8th day of March in every third year, and their places on the county council are filled by the newly-elected councillors who come into office on that day. But the council will have to fill up the vacancies on the Board under section 9, *post*, p. 500.

Other cases in which members elected by the county council cease to be members of that council call for no special notice. In all such cases the vacancy on the Board must be filled under section 9, *post*.

Section 8. **8.** A member of the Board may resign his office by notifying in writing his intention so to do to the chairman or clerk of the Board for the time being.

Resignation
of member.

In the case of the resignation by a member elected by the county council of his office as a member of such council, it would seem that under section 7 above, he would *ipso facto* cease to be a member of the Board without any necessity for giving notice under this section.

Casual
vacancies.

9. Any casual vacancy in the Board occurring by death resignation or otherwise shall be filled up by the council by whom the vacating member was originally chosen as soon as reasonably practicable after the occurrence of the vacancy but a member so chosen shall retain his office so long only as the vacating member would have retained the same if no vacancy had occurred.

The words "or otherwise" in this section are wide enough to include cases of vacancies occurring under section 7 above.

Note the provision as to duration of office.

Chairman
and vice-
chairman.

10. At their first meeting and subsequently at their annual meeting in November in each year the Board shall appoint one of their number to be chairman and another to be vice-chairman of the Board for the ensuing year.

As to meetings where neither chairman or vice-chairman is present, see rule 5 of the Second Schedule, *post*, p. 515.

Meetings and
proceedings
of Board.

11. Meetings of the Board shall be held and the proceedings thereat shall be conducted in accordance with the rules as to meetings and proceedings contained in the Second Schedule to this Act.

See the Second Schedule, *post*, p. 515.

Minutes
of proceed-
ings, &c.

12. (1.) A minute of proceedings at a meeting of the Board or of a committee signed at the same or at the next ensuing meeting by any person describing himself as or appearing to be chairman of the meeting at which the minute is signed shall be received in evidence without further proof.

Compare section 22 (5) of the Municipal Corporations Act, 1882, 45 & 46 Vict. c. 50, incorporated as to visiting committees appointed by an ordinary county council by section 175 (1) of the Lunacy Act, 1890, *ante*, p. 311.

[Minutes to
be *primâ
facie*
evidence.]

(2.) Until the contrary is proved every meeting of the Board or of a committee whereof a minute has been so made shall be deemed to have been duly convened and held and all the

members of the meeting shall be deemed to have been duly qualified and where the proceedings are proceedings of a committee the committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minutes. Section 12.

Compare section 22 (6) of the Municipal Corporations Act, 1882, 45 & 46 Vict. c. 50, incorporated as to visiting committees appointed by an ordinary county council by section 175 (1) of the Lunacy Act, 1890, *ante*, p. 311.

13. (1.) At their first meeting and subsequently at their annual meeting in November in each year the Board shall appoint a visiting committee of not less than eleven members for every asylum and may delegate to each committee such powers and duties of the Board as the Board from time to time think fit. The following sections of the Lunacy Act 1890 shall apply to each visiting committee (that is to say):—

Visiting and
other com-
mittees.

Section one hundred and seventy-one (Vacancies to be filled up):

Section one hundred and seventy-two (Duration of office):

Section one hundred and seventy-three (Examination of accounts):

Section one hundred and seventy-four (Members of visiting committee not to be interested):

Section one hundred and seventy-five except paragraph (1) (Meetings of visiting committee):

Section one hundred and seventy-six (Clerk to visiting committee).

As to the first part of this sub-section, compare section 169 (3) of the Lunacy Act, 1890, *ante*.

The references to the sections of that Act applied by this sub-section are as follows:—Section 171, *ante*, p. 310; section 172, *ante*, p. 310; section 173, *ante*, p. 311; section 174, *ante*, p. 311; section 175 (2), *ante*, p. 312; section 176, *ante*, p. 313.

(2.) A visiting committee may appoint sub-committees and may delegate to any sub-committee such powers and duties as they think fit and may make regulations for the guidance of any sub-committee. [Appointment of sub-committees and delegation of powers.]

This places the visiting committee in the same situation as an ordinary visiting committee under section 169 (3) of the Lunacy Act, 1890, *ante*, p. 308.

Where a committee constituted by an Act of Parliament are authorised by it to delegate any of their powers to a sub-committee, the powers so conferred upon the committee must be exercised by them acting in concert, and it is not competent to the sub-committee to apportion amongst themselves the duties so delegated to them; and one of them acting alone

Section 13. pursuant to such apportionment cannot justify his acts under the Act of Parliament: *Cook v. Ward* (1877), 2 C. P. D. 255; 36 L. T. (N.S.) 893; 25 W. R. 593; 41 J. P. 439. As to the subsequent authority of the committee to act in default of the sub-committee, see *Huth v. Clarke* (1890), 25 Q. B. D. 39; 59 L. J. M. C. 120; 38 W. R. 655; 55 J. P. 86.

[Committees
for other
purposes.]

(3.) The Board may also appoint out of their own body such other committees either of a general or special nature and consisting of such a number of persons as they think fit for any purposes which in the opinion of the Board would be better regulated and managed by means of such committees but the acts of every such committee shall unless the Board otherwise direct be submitted for approval to the Board.

Compare section 22 (2) of the Municipal Corporations Act, 1882, 45 & 46 Vict. c. 50.

Appointment
of officers.

14. The Board shall as far as practicable continue all existing officers and servants employed in connection with the existing county lunatic asylums in their several offices and employment but subject to such power of removal as they would have been subject to if this Act had not passed and at the same salaries or remuneration and subject as aforesaid the Board shall from time to time appoint and pay all such officers as are mentioned in section two hundred and seventy-six of the Lunacy Act 1890 but may delegate their powers under this section to the visiting committees.

The salary or remuneration of any officer or servant of the county council who may for the time being be employed by the Board shall be apportioned between the county council and the Board as they may agree.

Definition of "existing," section 2, *ante*, p. 497.

As to the removal of existing officers, see section 276 (3) of the Lunacy Act, 1890, *ante*, p. 385.

Transfer of County Asylums to Board.

Transfer of
existing
county
lunatic
asylums to
Board.

15. On and from the date of the first meeting of the Board the existing county lunatic asylums shall by virtue of this Act be transferred to and vested in the Board together with all lands buildings hereditaments moneys and other property real or personal (including things in action) held or enjoyed with or vested in any authority or person in respect of such asylums immediately before that date.

Definition of "existing," section 2, *ante*, p. 497.

As to the existing asylums, see the Introduction to this Act.

16. All agreements awards bonds conveyances contracts covenants deeds leases mortgages and other acts and things made executed or done in relation to the existing county lunatic asylums by or with the county justices county council or visiting committee or any person or persons on their behalf respectively and in force at the date of the first meeting of the Board shall continue as valid and effectual for all purposes in favour of against or with reference to the Board as may be required in each case and the Fulwood and Whittingham Water Act 1882 and any other enactment of a local Act applying to or affecting the existing county lunatic asylums or any of them shall continue to apply with the substitution of the Board for the county justices or committee of visitors as may be required in each case.

Section 16.

Saving for contracts deeds mortgages &c.

45 & 46 Vict. c. xi.

17. All actions arbitrations prosecutions or other proceedings or cause of proceeding pending or existing at the date of the first meeting of the Board by with or against or in favour of the county council or the visiting committee in relation to the existing county lunatic asylums may be continued or enforced and carried on by with against or in favour of the Board as may be required in each case.

Actions &c. not to abate.

18. All rules and regulations made before the date of the first meeting of the Board and relating to the existing county lunatic asylums shall continue in force until repealed or altered under the provisions of this Act and of the Lunacy Act 1890.

Regulations to continue in force until repealed or altered.

19. All sums of money for the maintenance treatment and care of lunatics and rents and other sums at the date of the first meeting of the Board due or accruing due to the county council or the visiting committee in respect of the existing county lunatic asylums may be collected and recovered by the Board.

Recovery of outstanding debts &c.

20. All books and documents which if this Act had not passed would have been receivable in evidence shall be receivable in evidence as if this Act had not passed.

Books &c. to be receivable in evidence.

Powers and Duties of Board.

21. (1.) The Board shall be under the same obligation to provide asylum accommodation as a local authority under the Lunacy Act 1890 and shall for that purpose have (subject to the provisions of this Act) all the powers conferred on local authorities and visiting committees under Part IX. of that Act

Power of Board to provide asylum accommodation and to manage asylums.

Section 21. as well as power to maintain alter improve and manage the existing county lunatic asylums on behalf of the county and the county boroughs.

See Part IX., sections 233—282 of the Lunacy Act, 1890, *ante*, pp. 352—389.

[Exercise of powers by visiting committees.]

(2.) But it shall not be obligatory on the Board to exercise any of those powers by a visiting committee though it shall be competent for the Board to delegate to a visiting committee such of those powers as they may from time to time think fit.

See as to delegation of powers, the notes to section 13 (2), *ante*, p. 501.

[Approval of county council unnecessary.]

(3.) Nothing in Part IX. of the said Act contained shall be construed so as to require the approval or confirmation by the county council of any act or proceeding of the Board or of a visiting committee.

This excludes the application of provisions to the contrary contained in section 82 of the Local Government Act, 1888, 51 & 52 Vict. c. 41, as applied by section 175 (1) of the Lunacy Act, 1890, *ante*, p. 311.

Adaptation of provisions of Lunacy Act, 53 & 54 Vict. c. 5.

22. (1.) Subject to the provisions of this Act all acts and things authorised or required by the Lunacy Act 1890 to be done by to or with a local authority may be done by to or with the Board as if the Board were the local authority of the entire county.

[Application of Parts IX. and X. of principal Act.]

(2.) Subject to the provisions of this Act Part IX. (except sections two hundred and seventy-three and two hundred and seventy-four which relate to expenses and borrowing) and Part X. of the Lunacy Act 1890 shall if and so far as any visiting committee is authorised by delegation from the Board to exercise the powers thereby conferred or any of them apply as if that committee were a visiting committee appointed under the said Act and so far as such delegation shall not in the case of any visiting committee extend Parts IX. and X. of the said Act (except as aforesaid and except provisions as to reports to and consent of the local authority) shall apply as if the Board were a visiting committee appointed under the said Act.

See Part IX., ss. 238—282 of the Lunacy Act, 1890, *ante*, pp. 352—389, and Part X., ss. 283—314 of the same Act, *ante*, pp. 390—425.

[Asylums and officers of Board.]

(3.) For the general purposes of the Lunacy Act 1890 the term “asylum” in that Act shall include any asylum for the time being vested in or under the control of the Board and any act or thing authorised or required by the said Act to be done

by or to any officer of a local authority or visiting committee Section 22.
 may be done by or to any officer under this Act holding any
 corresponding office.

Financial.

23. (1.) All expenses incurred by the Board in the execution of their duties shall be paid out of a fund to be called the Expenses payable out of asylum funds.
 asylums fund.

(2.) All sums received by the Board in the nature of revenue (other than sums charged for private patients under section two hundred and seventy-one of the Lunacy Act 1890 and other than any excess created by the payment of such greater weekly sums as mentioned in sub-section (4) of section two hundred and eighty-three of the same Act) shall be carried to that fund and any deficiency shall be raised by contributions to be made by the county and by each of the county boroughs in accordance with the provisions of this Act. [Revenue to be carried to asylums fund.]

(3.) The sums charged for private patients and any excess created under the enactments above referred to shall be dealt with and applied as nearly as may be in the manner provided with respect to such sums and excess respectively by the said enactments. [Building and repairs fund.]

24. *(The Board shall before the first day of March in every year estimate the total amount required to be raised by contributions for the ensuing year and shall divide that amount between the county and the county boroughs in proportion to the respective rateable values (as ascertained under section thirty-three of the Local Government Act 1888) of the county and the county boroughs and shall add to the amount apportioned to the county boroughs the sum of four thousand pounds or such other sum as may from time to time be fixed by agreement or by arbitration in manner provided by this Act (in this Act referred to as "the added sum").* Amounts to be contributed by county and county boroughs respectively.

The amount so apportioned together with the added sum shall be the aggregate amount required to be contributed by the county boroughs and shall be contributed by them respectively in proportion to their respective rateable values ascertained as aforesaid.

The balance of the amount required to be raised by the Board shall be contributed by the county council.)

This section was repealed by the Lancashire County (Lunatic Asylums) Act, 1902, section 4, *post*, p. 521.

By section 33 (2) of the Local Government Act, 1888, 51 & 52 Vict. c. 41, where, for the purpose of calculating any contribution or payment to be

Section 24. made under this Act, it is necessary to ascertain the rateable value of both a county and a county borough, such rateable value shall be ascertained and fixed by a joint committee composed of representatives of all the councils concerned, and such committee shall, for that purpose, have all the powers and jurisdiction of quarter sessions, and of a committee of justices appointed under the County Rate Act, 1852 (15 & 16 Vict. c. 81), and the Acts amending the same, and the number of representatives for the county and each county borough respectively shall be settled by agreement, or in default of agreement by the Local Government Board.

NOTE.

Arbitration as to amount of contributions of county boroughs.

25. *(At the expiration of three years from the thirty-first day of December one thousand eight hundred and ninety-one and of every successive period of three years the county council or the council of any county borough may propose that the amount of the added sum be readjusted and in default of agreement between the county council and all the county boroughs within a period of three months from the date of such proposal the question of the amount of the added sum shall be referred to a single arbitrator under the Arbitration Act 1889 and that Act shall apply accordingly as if the arbitration were pursuant to a submission.)*

52 & 53 Vict. c. 49.

This section was repealed by the Lancashire County (Lunatic Asylums) Act, 1902, section 4, *post*, p. 521.

Payment of contributions to asylums fund.

26. (1.) For the purpose of obtaining payment of the sums to be contributed by the county and the county boroughs respectively the chairman of the Board shall before the first day of March in every year send to the county council and to the council of each county borough a precept (which may be in the form in the Third Schedule to this Act or to the like effect) for payment of the amount to be contributed by the county or county borough as the case may be.

See now section 6 of the Lancashire County (Lunatic Asylums) Act, 1902, *post*, p. 522.

[Retrospective contributions.]

(2.) Contributions may be made retrospective in order to raise money for the payment of expenses which have been incurred or of sums which have become payable at any time within six months before the date of the precept and may be made payable either in one sum or in two half-yearly sums.

[Payment to be made to treasurer.]

(3.) The council shall order the required amount of contributions to be paid to the treasurer of the Board out of the county fund or borough fund as the case may be at the time or times appointed by the precept.

(4.) If the precept of the Board is not complied with two **Section 26.** justices for the county may on the complaint of the chairman of the Board issue and send to the treasurer of the authority ^[Enforcement of precept.] in default a warrant requiring him to pay to the treasurer of the Board besides the sums due under the precept the additional sum mentioned in the warrant the same being calculated in the proportion of one shilling to every ten on the sum mentioned in the precept and until payment thereof the treasurer of the Board shall have in respect of the warrant all the powers for the recovery thereof which are given against a guardian or overseer for the recovery of county rates and surcharges and in addition the Board may recover the sums due by action or other proceeding in any court of competent jurisdiction against the authority in default.

(5.) If any difference arises concerning the precept it shall be referred to a single arbitrator under the Arbitration Act 1889 and that Act shall apply accordingly as if the arbitration ^[Reference of differences to arbitration.] were pursuant to a submission.

27. The credit balance (if any) which stood to the revenue accounts of the lunatic asylums on the first day of April one thousand eight hundred and eighty-nine after adding all assets accrued on revenue accounts but not then received and deducting all outstanding liabilities on those accounts shall be transferred by the county council to the Asylums Board and the Board shall in their accounts divide such balance between the county and such of the county boroughs as were non-quarter sessions boroughs on the first day of April one thousand eight hundred and eighty-nine in proportion to their respective rateable values as ascertained by this Act and shall credit the county and the said boroughs respectively with the amount of their respective shares of such balance before making the first precept for contribution to the asylums fund on them respectively.

^{As to credit balances on revenue accounts of lunatic asylums on 1 April 1889.}

The 1st April, 1889, was the appointed day under section 109 of the Local Government Act, 1888, 51 & 52 Vict. c. 41. Under the law as it stood before the commencement of that Act, the non-quarter sessions boroughs were not obliged to provide asylums for their own lunatics, but were treated as part of the county for the purposes of the existing Lunacy Acts.

As to the ascertainment of rateable values under this Act, see section 7 of the Lancashire County Lunatic Asylums Act, 1902, *post*, p. 522.

Section 28. 28. The accounts of the receipts and expenditure of the Board and of committees of the Board shall be made up to the end of each financial year ending on the thirty-first day of March and shall be in the form for the time being prescribed by the Local Government Board.

Accounts of Board.

The same date is fixed for the making up of the accounts of ordinary visiting committees and their officers under section 71 of the Local Government Act, 1888, 51 & 52 Vict. c. 41, as applied by section 18 of the Lunacy Act, 1891, *ante*, p. 479.

Returns to Local Government Board. 29. (1.) The clerk of the Board shall make a return to the Local Government Board of the receipts and expenditure of the Board for each financial year.

[Period for return.] (2.) The return shall be made for the financial year ending on the thirty-first of March or on such other day as the Local Government Board on the application of the Board from time to time prescribe.

[Form of return.] (3.) The return shall be in such form and contain such particulars as the Local Government Board from time to time direct.

[Date for sending in return.] (4.) The return shall be sent to the Local Government Board within one month after the completion of the audit for the second half of each financial year and a copy thereof shall also be sent to the Lunacy Commissioners. (a)

[Penalty for default.] (5.) If the clerk of the Board fails to make any return required under this section he shall be liable to a fine not exceeding twenty pounds to be recovered by action on behalf of the Crown in the High Court.

Audit of accounts of Board. 30. The accounts of the Board and of committees of the Board shall be audited by the district auditors appointed by the Local Government Board in like manner as accounts of an urban authority and their officers under sections two hundred and forty-seven and two hundred and fifty of the Public Health Act 1875 and those sections and all enactments amending them or applying to audit by district auditors (including the enactments imposing penalties and providing for the recovery of sums) shall apply in like manner as if so far as they relate to an audit of the accounts of an urban authority and the officers of such authority they were herein re-enacted with the necessary modifications and accordingly all ratepayers and owners of

(a) Now the Board of Control.

property in the county and in each county borough shall have the like rights and there shall be the same appeal as in the case of such audit Provided that the First Schedule to the District Auditors Act 1879 shall be modified in manner described in the Fourth Schedule to this Act. Section 30.
—

See notes to section 18 of the Lunacy Act, 1891, *ante*, p. 479. See also, the Order of the Local Government Board dated March 24th, 1893, *post*, p. 616, prescribing the form of financial statement to be submitted to the district auditor by the Lancashire Asylums Board.

31. (1.) For the purpose of paying any money payable under the Lunacy Act 1890 or this Act or of discharging any portion of the debt by this Act transferred to them the Board may with the consent of the Local Government Board borrow and re-borrow on the security of the asylums fund and of the contributions thereto such sums as they from time to time require and may grant mortgages charging the said fund and contributions accordingly. Power of
Board to
borrow.

This section replaces section 274 of the Lunacy Act, 1890, *ante*, which, under section 22 of this Act, is excepted from the application of Part IX. of the Lunacy Act, 1890, to the Board formed under this Act.

(2.) A loan under this section shall be repaid within such period not exceeding thirty years as the Board with the consent of the Local Government Board determine in each case. [Time for
repayment.]

Compare section 69 (5) of the Local Government Act, 1888, 51 & 52 Vict. c. 41, applied to ordinary local authorities by section 274 of the Lunacy Act, 1890, *ante*, p. 381.

(3.) The Board shall pay off every loan either by equal yearly or half-yearly instalments of principal or of principal and interest combined or by means of a sinking fund set apart invested accumulated and applied in accordance with the Local Loans Act 1875 and the Acts amending the same. [Method of
repayment.]

Compare section 69 (6) of the Local Government Act, 1888, 51 & 52 Vict. c. 41, applied to ordinary local authorities by section 274 of the Lunacy Act, 1890, *ante*, p. 381.

(4.) All money re-borrowed shall be repaid within the period fixed for the discharge of the original loan and every loan for re-borrowing shall for the purpose of ultimate discharge be deemed to form part of the same loan as the original loan and the obligations of the Board with respect to the discharge of the original loan shall not be in any way affected by means of the re-borrowing. [Reborrow-
ing.]

Section 31. Compare section 69 (4) of the Local Government Act, 1888, 51 & 52 Vict. c. 41, applied to ordinary local authorities by section 274 of the Lunacy Act, 1890, *ante*, p. 381.

Annual return
to Local
Government
Board with
respect to
sinking fund.

32. The clerk to the Board shall within twenty-one days after the expiration of each year during which any sum is required to be set apart for a sinking fund or any instalment is required to be paid under this Act transmit to the Local Government Board a return in such form as may be prescribed by that Board and verified by statutory declaration if so required by them showing the amount which has been paid as an instalment or invested for the purpose of such sinking fund during the year preceding the making of such return and the description of the securities upon which the same has been invested and also showing the purposes to which any portion of the moneys invested for the sinking fund and the interest thereof have been applied during the same period and the total amount remaining invested at the end of the year and in the event of any wilful default in making such return such clerk shall be liable to a penalty of not exceeding twenty pounds which shall be paid to the Local Government Board and shall be recoverable by that Board in the same manner as penalties recoverable under the Public Health Act, 1875, in a summary manner may be recovered by parties aggrieved within the meaning of that Act. If it appear to the Local Government Board by such return or otherwise that the Board have failed to pay any instalment or to set apart the sum required by this Act for the sinking fund or have applied any portion of the moneys set apart for that fund or any interest thereof to any purposes other than those authorised by this Act the Local Government Board may by order direct that a sum not exceeding double the amount in respect of which such default shall have been made shall be set apart and invested as part of the sinking fund and such order shall be enforceable by writ of *mandamus* to be obtained by the Local Government Board out of the High Court.

As to the recovery of penalties in a summary manner by parties aggrieved under the Public Health Act, 1875, 38 & 39 Vict. c. 55, see section 251 of that Act.

Existing
debts to
be discharged
by Board.

33. All existing debts and liabilities incurred in building and furnishing or otherwise on account of any of the existing county lunatic asylums shall together with all interest thereon be transferred to and be paid and discharged by the Board and

any such debt which was secured by mortgage or otherwise on the county fund or rates shall until paid and discharged by the Board be by virtue of this enactment secured in like manner on the asylums fund and the contributions thereto and the mortgagee or other person secured shall have the same rights and remedies as nearly as may be against the said fund and contributions as he would have had against the county fund or rates if this Act had not been passed. Section 33.

Miscellaneous.

34. (*For the purposes of this Act the rateable value of the county and of the county boroughs respectively shall be their rateable values as ascertained and fixed for the time being by the joint committee appointed under section thirty-three of the Local Government Act, 1888.*) Provision as to rateable value.

This section was repealed by the Lancashire County (Lunatic Asylums) Act, 1902, section 4, *post*, p. 521.

See section 33 (2) of the Local Government Act, 1888, 51 & 52 Vict. c. 41, cited in the notes to section 24 of this Act, *ante*, p. 505.

35. (1.) In the year one thousand eight hundred and ninety-three and in every subsequent fifth year it shall be lawful for the county council or the council of any county borough to apply to the Board to increase or diminish the number of representatives to be appointed by any council under this Act and unless the Board settle the number to the satisfaction of the council so applying the matter shall be referred to the Local Government Board who shall by order fix and determine the number of representatives to be appointed by each council. Power to alter number of members of Board.

(2.) If by reason of any exercise of the powers of this section the aggregate number of representatives on the Board is increased or diminished such increased or diminished number as the case may be shall be substituted for the aggregate number of representatives fixed by the preceding provisions of this Act. [Substitution of altered number of members.]

See sections 3 and 5, *ante*, p. 498.

36. (1.) If at any time hereafter any borough situate in the county shall be constituted a county borough under the Local Government Act 1888 the council of such borough shall be entitled to elect one member of the Board and the number of members of the Board shall be increased accordingly and each such borough shall be a county borough for the purposes of As to county boroughs hereafter constituted and as to the county borough of Stockport.

Section 36. this Act as if it had been named in the First Schedule to this Act.

As to the creation of new county boroughs, see section 54 of the Local Government Act, 1888, 51 & 52 Vict. c. 41.

[Provision for Stockport ceasing to belong in part to Lancashire.]

(2.) If at any time hereafter the portion of the county borough of Stockport now situate in the geographical county of Lancaster shall cease to be so situate the council of that borough shall cease to be entitled to elect any member of the Board and the number of members of the Board shall be deemed to be decreased accordingly.

See also section 37 (7), *post*, p. 514.

Power to boroughs to withdraw from arrangement under this Act.

37. The council of any county borough (in this section referred to as "the borough council") may by resolution determine to withdraw itself and the district of its borough (in this section referred to as "the borough") from the operation of this Act and upon the passing of any such resolution this Act shall subject to the provisions of this section cease to apply to the borough council and to the borough and the following provisions shall have effect (namely):—

(1.) Notice in writing of the passing of the resolution shall be forthwith sent by the town clerk of the borough to the clerk of the Board and on the expiration of a period of six months from the service of the said notice in writing on the clerk of the Board the representation of the borough on the Board shall cease and except as provided by this section the liability of the borough to contribute to the expenses of the Board and the liability of the Board to provide asylum accommodation for the borough shall also cease.

Compare section 245 (3) of the Lunacy Act, 1890, *ante*, p. 362.

(2.) The borough council shall be subject to the obligations imposed by the Lunacy Act 1890 of providing asylum accommodation for the borough.

Compare section 245 (4) of the Lunacy Act, 1890, *ante*, p. 363.

See Part IX., sections 238, 239 of the Lunacy Act, 1890, *ante*, pp. 355, 358.

(3.) If any poor law union is situate partly within and partly without the borough the union pauper lunatics in the asylums of the Board belonging to such union shall be apportioned by the Board between the part

of the same union within the borough and the part of the same union without the borough and the union pauper lunatics so apportioned to the part of the said union within the borough shall with any vagrant pauper lunatics belonging to the borough be deemed to be for the purposes of this section the pauper lunatics belonging to the borough. Section 37.

- (4.) The borough council shall continue to contribute to the expenses of the Board in manner provided by this Act until the pauper lunatics belonging to the borough in the asylums of the Board have been removed and the borough council may at any time remove from the asylums of the Board the pauper lunatics belonging to the borough. [Contribution to expenses.]

The expenses of the removal of the pauper lunatics belonging to the borough from the asylums of the Board to the new asylum for the borough, will apparently be payable out of the borough fund as capital expenditure on account of the new asylum.

- (5.) An adjustment of the property and debts between the Board and the borough council shall be made within twelve months from the date of the notice of withdrawal by agreement or in default of agreement by arbitration in accordance with the provisions of section sixty-two of the Local Government Act 1888 and all the provisions of sub-sections (2) to (7) of that section both included shall apply accordingly. [Adjustment of property and debts.]

Section 62 (2) to (7) of the Local Government Act, 1888, 51 & 52 Vict. c. 41, provide as follows:—

- (2.) In default of an agreement as to any matter requiring adjustment for the purpose of this Act, or any matter which, in case of difference is to be referred to arbitration, then, if no other mode of making such adjustment or determining such difference is provided by this Act, such adjustment or difference may be made or determined by an arbitrator appointed by the parties, or in case of difference as to the appointment, appointed by the Local Government Board.
- (3.) An arbitrator appointed under this Act shall be deemed to be an arbitrator within the meaning of the Lands Clauses Consolidation Act, 1845, and the Acts amending the same, and the provisions of those Acts with respect to an arbitration shall apply accordingly ; and further, the arbitrator may state a special case, and notwithstanding anything in the said Acts, shall determine the amount of the costs, and shall have power to disallow as costs in the arbitration, the costs of any witness whom he considers to have

Section 37.

been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily.

- (4.) Any award or order made by any arbitrator under this Act may provide for any matter for which an agreement might have provided.

For sub-sections (5), (6), and (7), see notes to section 15 of the Lunacy Act, 1891, *ante*, p. 478.

- (6.) In such agreement or award provision may also be made for any alteration of the number of representatives on the Board.

See sections 5 and 35 of this Act, *ante*, pp. 498, 511.

- (7.) In case the borough of Stockport shall cease to form part of the geographical county of Lancaster the borough council shall be deemed to have passed a resolution and given a notice as provided by this section and all the provisions of this section shall apply accordingly.

See section 36 (2) of this Act, *ante*, p. 512.

* * * * *

Schedules.

SCHEDULES referred to in the foregoing Act.

Section 5 (2).

FIRST SCHEDULE.

NUMBER OF MEMBERS OF THE BOARD TO BE ELECTED BY COUNCILS OF
THE COUNTY BOROUGHS.

Name of County Borough.	Number of Members.
Barrow-in-Furness	2
Blackburn	4
Bootle	2
Bolton	4
Burnley	2
Bury	2
Liverpool	8
Manchester	6
Oldham	4
Preston	4
Rochdale	2
Salford	4
St. Helen's	2
Stockport	1
Wigan	2

(See also Lancashire County (Lunatic Asylums and other Powers) Act, 1902, *post*, p. 517 *seq.*)

SECOND SCHEDULE.		Schedules.
MEETINGS AND PROCEEDINGS OF ASYLUMS BOARD.		Section 11.
1. The Board shall hold a meeting in the month of November in every year to be called the annual meeting. The first meeting of the Board shall be summoned by the chairman of the Lancashire County Council.	Annual meeting.	
2. The chairman may at any time call a meeting. If the chairman refuses to call a meeting after a requisition for that purpose signed by five members of the Board has been presented to him any five members of the Board may forthwith on that refusal call a meeting. If the chairman (without so refusing) does not within seven days after such presentation call a meeting any five members of the Board may on the expiration of those seven days call a meeting.	Summoning meetings.	
3. Six clear days at least before any meeting of the Board a summons to attend the meeting specifying the business proposed to be transacted thereat and signed by the chairman or clerk of the Board shall be left or delivered by post at the usual place of abode of every member of the Board. Want of service of the summons on any member of the Board shall not affect the validity of a meeting.	Notice of meetings.	
4. To constitute a meeting of the Board there must be at least fifteen members present.	Quorum.	
5. The chairman of the Board or in his absence the vice-chairman of the Board shall be the chairman at every meeting.	Chairman of meetings.	
If neither of them is present within fifteen minutes after the time appointed for the meeting the members then present shall choose another of the members to be chairman of that meeting.		
6. All acts of the Board and all questions coming or arising before the Board may be done and decided by the majority of such members of the Board as are present and vote at a meeting held in pursuance of this Act.	Decision of questions at meetings.	
In case of equality of votes the chairman of the meeting shall have a second or casting vote.		
7. Minutes of the proceedings of every meeting shall be drawn up and fairly entered in a book kept for that purpose and shall be signed by the chairman of the meeting or of the next ensuing meeting.	Minutes.	
8. Subject to the foregoing provisions of this schedule the Board may from time to time make standing orders for the regulation of their proceedings and business and vary or revoke the same.	Standing orders.	

Section 26.

THIRD SCHEDULE.

FORM OF PRECEPT.

The Lancashire Asylums Board

to wit.

}

To the County Council of Lancashire or (Town

Council of the County Borough of).

These are to require you (*the County Council of Lancashire*) or (*the Town Council of the County Borough of*) from and out of the moneys in the hands of your treasurer to pay* on or before the day of into the hands of treasurer of the Lancashire Asylums

*If the sum mentioned in

Schedules. Board the sum of £ being the amount required for the expenses
 of the said Board up to the day of and if there are no
 the precept is to be payable in two instalments, this form must be altered accordingly.
 moneys in the hands of your treasurer to raise the sum by means of a rate.
 Given under the common seal of the Lancashire }
 Asylums Board in pursuance of a resolution }
 of the Board this day of in }
 the presence of . }



Clerk to the Board.

Section 30.

FOURTH SCHEDULE.

ALTERATION OF SCHEDULE TO DISTRICT AUDITORS ACT, 1879. (42 & 43 Vict. c. 6.)

For the purposes of the foregoing Act the First Schedule to the District Auditors Act, 1879, shall be modified in manner shown in the Second Schedule to the Local Government Act, 1888.

NOTE.—The Second Schedule to the Local Government Act is as follows :

Alteration of Schedule to District Auditors Act, 1879 *(42 & 43 Vict. c. 6).*

The following scale shall, until otherwise determined by Parliament, be substituted for so much of the scale set forth in the First Schedule to the District Auditors Act, 1879, as relates to expenditure amounting to 100,000*l.* and upwards.

Where the Total of the Expenditure comprised in the Financial Statement is	The Sum shall be
100,000 <i>l.</i> and under 150,000 <i>l.</i>	50 <i>l.</i>
150,000 <i>l.</i> and under 200,000 <i>l.</i>	60 <i>l.</i>
200,000 <i>l.</i> and upwards.	15 <i>l.</i> in addition for every 50,000 <i>l.</i> or part thereof.

THE LANCASHIRE COUNTY (LUNATIC ASYLUMS) ACT, 1902.

2 EDW. 7, CH. lvi.

A.D. 1902.

AN ACT to alter and amend the Lancashire County (Lunatic Asylums and other Powers) Act 1891 and to alter the mode of contribution to the expenses of the Lancashire Asylums Board.
[23rd June 1902.]

WHEREAS by the Lancashire County (Lunatic Asylums and ^{54 Vict. c. xx.} other Powers) Act 1891 (hereinafter referred to as “ the Act of 1891 ”) the Lancashire Asylums Board (in the Act of 1891 and in this Act called “ the Board ”) was constituted of thirty-eight representatives of the administrative county of Lancaster (in the Act of 1891 and in this Act referred to as “ the county ”) and forty-nine representatives of the county boroughs named in the First Schedule to the Act of 1891 (in the Act of 1891 and in this Act referred to as “ the county boroughs ”):

And whereas by the Act of 1891 it is enacted as follows that all expenses incurred by the Board in the execution of their duties shall be paid out of a fund to be called “ the Asylums Fund ” and that the Board shall before the first day of March in every year estimate the total amount required to be raised by contributions for the ensuing year and shall divide that amount between the county and the county boroughs in proportion to their respective rateable values and shall add to the amount apportioned to the county boroughs the sum of four thousand pounds or such other sum as may from time to time be fixed by agreement or by arbitration in manner provided by the Act of 1891 (in the said Act and in this Act referred to as “ the added sum ”) and that the amount so apportioned together with the added sum shall be the aggregate amount required to be contributed by the county boroughs and shall be contributed by them respectively in proportion to their

A.D. 1902. — respective rateable values and that the balance of the amount required to be raised by the Board shall be contributed by the county council :

And whereas section 25 of the Act of 1891 contains provisions for the readjustment of the amount of the added sum by agreement between the county council and all the county boroughs or in default of agreement by arbitration :

And whereas on the first day of January one thousand nine hundred and one the county council gave notice to each of the county boroughs that they proposed that the amount of the added sum should be readjusted on the ground that the added sum of four thousand pounds was not sufficient to fairly adjust as between the county council and the county boroughs as a whole the excessive contribution which the county council was making towards the expenses of the Board as compared with the user of the asylums buildings which the county council required for the pauper lunatics in the administrative county :

And whereas it is expedient that the added sum should be readjusted for the period between the thirty-first day of March one thousand nine hundred and one and the thirty-first day of March one thousand nine hundred and three in manner in this Act provided :

And whereas since the constitution of the Board it has been found that the provision contained in the Act of 1891 for contribution by the county and by each of the county boroughs to the asylums fund in proportion to their rateable values respectively is inequitable and inflicts on the county and certain of the county boroughs a greater burden in respect to their contributions to the asylums fund than they ought or would have to bear if such contributions were made in proportion to the user of the asylums by lunatics sent from the district of each contributing body while others of the county boroughs are contributing less than they ought or would have to contribute if their contributions were so made :

And whereas at a meeting of representatives of the county boroughs held at the Town Hall Manchester on Friday the fifteenth day of March one thousand nine hundred and one the following resolutions were passed by a majority of the representatives then present :—

“ That as it is now possible to obtain correct statistics of the number of lunatics sent to the Lancashire asylums

by the administrative county of Lancaster and the various county boroughs it is in the opinion of this meeting expedient that the basis of contribution to the maintenance of the asylums under the provisions of the Lancashire County (Lunatic Asylums and other Powers) Act 1891 should be altered so as to provide for the contributions being made in proportion to the number of lunatics sent from each contributing body ;

“ That in the opinion of this meeting it is expedient that a Bill should be promoted in the next session of Parliament to carry out the principle of the foregoing resolution and that Mr. Fox (the town clerk of Blackburn) be requested to communicate this resolution to the Lancashire County Council and the various county boroughs ” :

And whereas at a further meeting of representatives of the county boroughs held at the Town Hall Manchester on Tuesday the sixteenth day of April one thousand nine hundred and one a resolution was passed unanimously as follows :—

“ That the cost of the preparation and promotion of the proposed Bill be borne by the city of Manchester and the boroughs of Barrow-in-Furness Blackburn Bootle Burnley Bury Oldham Preston Rochdale Salford Saint Helens and Stockport and such other boroughs as may hereafter desire to join in proportion to the number of lunatics respectively sent by the city of Manchester and those boroughs to the county asylums ” :

And whereas at a meeting of the county council held on the second day of May one thousand nine hundred and one the following resolution was passed :—

“ Resolved that upon the recommendation of the finance committee the county council support any Bill that may be promoted by the county boroughs to have the contributions both of the county and the county boroughs to the cost of the provision of lunatic asylums by the Lancashire Asylums Board based on the principle of user instead of rateable value ” :

And whereas it is expedient that the basis of contributions to the maintenance of the asylums under the Act of 1891 should be altered so as to provide for the contributions by the county and the county boroughs being made in proportion to the user of

A.D. 1902.

A.D. 1902. the asylums by the lunatics sent from the district of each contributing body instead of in proportion to the rateable value of each such district as provided by the Act of 1891 :

And whereas it is expedient that the Board should be for the purposes of the Local Loans Act 1875 declared to be a local authority under that Act :

And whereas it is expedient that the council of each of the county boroughs should be authorised to invest any moneys standing to the credit of any sinking or redemption fund or any uninvested capital in the mortgages or debentures of the Board :

And whereas the council of the said city and of each of the county boroughs of Barrow-in-Furness Blackburn Bootle Burnley Bury Oldham Preston Salford Saint Helens Stockport and Warrington by an absolute majority of the whole number of the council of the said city and of each of the said county boroughs duly held after ten days' notice by public advertisement of such meeting and of the purpose thereof in a local newspaper published and circulating in the said city and in each such borough such notice being in addition to the ordinary notices for summoning such meeting resolved that the expense in relation to promoting the Bill for this Act should be charged on the borough fund and borough rate :

And whereas each such resolution was published twice in each case in the same local paper and has received the approval of the Local Government Board :

And whereas the propriety of the promotion of the Bill for this Act was confirmed by an absolute majority of the whole number of the council of the said city and of each of the said county boroughs at meetings held by the councils of the said city and of such boroughs respectively in pursuance of a similar notice not less than fourteen days after the deposit of the Bill in Parliament :

And whereas the owners and ratepayers of the said city and of each of the said county boroughs by resolution in manner provided in the Third Schedule to the Public Health Act 1875 consented to the promotion of the Bill for this Act :

And whereas the purposes of this Act cannot be effected without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted and be it enacted by the King's most Excellent Majesty by and

with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

1. This Act may be cited as the Lancashire County (Lunatic Asylums) Act 1902 and shall save as is otherwise expressly provided come into operation on the first day of November one thousand nine hundred and two which date is hereinafter referred to as “ the commencement of this Act.”

2. Words and expressions to which meanings are assigned in the Lunacy Act 1890 and in the Act of 1891 have in this Act the same respective meanings unless the context otherwise requires except that the expression “ county boroughs ” shall include in addition to the boroughs named in the First Schedule to the Act of 1891 the county borough of Warrington.

3. This Act is divided into Parts as follows (viz.) :—

Part I. Alteration of basis of contribution.

Part II. Finance.

PART I.

ALTERATION OF BASIS OF CONTRIBUTION.

4. Sections 24 25 and 34 of the Act of 1891 shall be and the same are hereby respectively repealed as from the thirty-first day of March one thousand nine hundred and three.

5.—(1) The clerk to the board of guardians of every union within the county or wholly or partly within any of the county boroughs shall not later than the first day of February in each year after the commencement of this Act make out and sign and send to the clerk of the Board to the clerk of the county council and to the town clerk of each of the county boroughs a true and complete list in duplicate in the form in the schedule to this Act of all lunatics sent at any time to the asylums of the Board from the county and from each of the county boroughs within which the union or any part of the union which such clerk to the board of guardians represents is situate and who have within the year ending the thirty-first day of December immediately preceding the said first day of February been resident in the said asylums and in any other asylum or place (if any) where (having been sent to the asylums of the Board) any of such lunatics have been boarded out by the Board or by a committee of visitors and showing the period of residence

A.D. 1902.

Short title
and com-
mencement.

Interpreta-
tion.

Act divided
into Parts.

Repeal of
sections 24
25 and 34 of
Act of 1891.

Clerks to
boards of
guardians to
furnish
returns.

A.D. 1902. of every such lunatic within such year in the asylums of the Board and in any such other asylum or place the first of such lists to be made out signed and sent as above mentioned in respect of the year ending the thirty-first day of December one thousand nine hundred and two and the clerk to each asylum of the Board and every constable and relieving officer and every overseer of any parish within the union who has at any time apprehended or dealt with any lunatic whether wandering at large or otherwise within the district or parish of such constable relieving officer or overseer shall give to the clerk to the guardians of each such union such information (including the name of the administrative county or county borough in which the pauper lunatic shall have been residing immediately previous to becoming chargeable) as he may from time to time require to enable him to make out such list as is hereinbefore provided for.

(2) The clerk to any board of guardians and any clerk to asylum constable or relieving officer or overseer who shall fail to comply with the provisions of this section shall be liable for each offence to a penalty not exceeding five pounds and to a continuing penalty not exceeding twenty shillings for every day after the first day during which such failure shall continue and any penalty incurred under this Act may be recoverable in manner provided by the Summary Jurisdiction Acts.

Amendment
of section 26
of Act of
1891.

6. Subsection (1) of section 26 of the Act of 1891 shall as from the commencement of this Act be read and have effect as if the words " the first day of April in every year " were inserted therein in place of the words " the first day of March in every year."

Amounts to
be contri-
buted by
county and
county
boroughs.

7. The Board shall before the first day of April in every year after the commencement of this Act estimate the total amount required to be raised by contributions for the ensuing year and shall divide that amount between the county and the county boroughs in proportion to the period of residence of the lunatics sent as aforesaid from the county and from each of the county boroughs respectively in the asylums or in any such other asylum or place as shown by such lists for the year ending the thirty-first day of December last preceding the said first day of April and the amount so apportioned shall be contributed by the county and the county boroughs in such proportions respectively. The first of such apportionments shall be made on the basis of the lists for the year ending the thirty-first day of December

one thousand nine hundred and two and the contributions payable under such first apportionment shall be made by the county and the county boroughs for the year ending the thirty-first day of March one thousand nine hundred and four. A.D. 1902.

8. As from the thirty-first day of March one thousand nine hundred and three section 23 and sub-section (4) of section 37 of the Act of 1891 shall be read and have effect as if the provisions of the three last preceding sections of this Act were referred to therein in place of the provisions of sections 24 25 and 34 of the Act of 1891. Amendment of sections 23 and 37 (4) of Act of 1891.

9. The added sum referred to in section 24 of the said Act shall as from the thirty-first day of March one thousand nine hundred and one up to the thirty-first day of March one thousand nine hundred and three be deemed to have been increased by the further sum of seven thousand pounds per annum and each county borough shall pay the county council its share of such further sum in proportion to its rateable value. Saving rights of county council.

10. Nothing in this Act shall prejudice or affect anything done under the Act of 1891 or under the Local Government Act 1888 or under any orders made by the commissioners appointed by the last-mentioned Act with respect to vagrant lunatics prior to the commencement of this Act. Saving as to Act of 1891 Local Government Act 1888 and Orders.

PART II.

FINANCE.

11. For the purpose of raising money under the powers of the Act of 1891 the provisions of the Local Loans Act 1875 shall be available to the Board who shall be deemed to be a local authority within the meaning thereof and notwithstanding anything contained in the Local Loans Act 1875 the prescribed period shall in each case be such period not exceeding thirty years as the Board with the consent of the Local Government Board determine in each case. Local Loans Act 1875 to be available.

12. The clerk to the Board shall within twenty-one days after the expiration of each year during which any sum is required to be set apart for a sinking fund or any instalment is required to be paid under this Act transmit to the Local Government Board a return in such form as may be prescribed by that Board and verified by statutory declaration if so required by them showing the amount which has been paid as an instalment or invested for the purpose of such sinking fund Annual return to Local Government Board with respect to sinking fund.

A.D. 1902.

during the year preceding the making of such return and the description of the securities upon which the same has been invested and also showing the purposes to which any portion of the moneys invested for the sinking fund and the interest thereof have been applied during the same period and the total amount remaining invested at the end of the year and in the event of any wilful default in making such return such clerk shall be liable to a penalty of not exceeding twenty pounds which shall be paid to the Local Government Board and shall be recoverable by that Board in the same manner as penalties recoverable under the Public Health Act 1875 in a summary manner may be recovered by parties aggrieved within the meaning of that Act. If it appear to the Local Government Board by such return or otherwise that the Board have failed to pay any instalment or to set apart the sum required by this Act for the sinking fund or have applied any portion of the moneys set apart for that fund or any interest thereof to any purposes other than those authorised by this Act the Local Government Board may by order direct that a sum not exceeding double the amount in respect of which such default shall have been made shall be set apart and invested as part of the sinking fund and such order shall be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the High Court.

Power to
county
boroughs to
invest in
mortgages
of Board.

13. In addition to any securities in which sums paid into sinking funds created by local authorities may by law be invested it shall be lawful for the councils of the county boroughs respectively as from the passing of this Act from time to time to invest any such sums in the mortgages or debentures of the Board.

Costs of Act.

14. The costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act as taxed by the taxing officer of one of the Houses of Parliament shall be paid jointly by the city of Manchester out of the city fund and by the county boroughs of Barrow-in-Furness Blackburn Bootle Burnley Bury Oldham Preston Salford Saint Helens Stockport and Warrington out of their respective borough funds in proportion to the period of residence of lunatics sent from the district of the said city and from the district of each of the said county boroughs in the asylums or in any other asylum or place included as before mentioned in

accordance with the lists furnished by the clerks of the guardians of the unions in which the said city and each of the said county boroughs is wholly or partly situate for the year ending the thirty-first day of December one thousand nine hundred and two.

A.D. 1902.

SCHEDULE.

LANCASHIRE COUNTY (LUNATIC ASYLUMS) ACT 1902.

UNION.

A true and complete list of lunatics sent at any time to the asylums of the Lancashire Asylums Board from the county of Lancaster (and) (or) from the county borough of within the union of and who have within the year ending the thirty-first day of December one thousand nine hundred and been resident in the said asylums and in any other asylums or places where they have been boarded out by the Asylums Board or by a committee of visitors and showing the period of residence within such year of every such lunatic either in the said asylums or in any such other asylums and places.

LUNATICS SENT FROM THE ADMINISTRATIVE COUNTY.

Consecutive Number.	Name.	Age.	Sex.	Period of Residence.			
				From	To	Weeks.	Days.

LUNATICS SENT FROM THE COUNTY BOROUGH OF

Consecutive Number.	Name.	Age.	Sex.	Period of Residence.			
				From	To	Weeks.	Days.

Signed by me the day of
A.B.

Clerk to the Board of Guardians of the said Union.

RULES MADE BY THE COMMISSIONERS IN
LUNACY WITH THE APPROVAL OF THE
LORD CHANCELLOR.

JUNE 26, 1895.

Rule 1.
Books to be
kept.

1. (1.) (There shall be kept in every institution for lunatics—
(a) a *Visitors' Book*; (b) a *Register of Patients*; (c) a *Register of Removals, Discharges, and Deaths*; (d) a *Medical Journal*; (e) a *Register of Mechanical Restraint*; (f) a *Medical Case Book for Patients*; (g) a *Post-Mortem Book*.)

This rule was annulled by Rule 1 of the Rules of the Commissioners in Lunacy, 31st October, 1906, *post*.

(2.) (There shall also be kept in every asylum receiving private patients, hospital, and licensed house a *Patients' Book*, and in every hospital and licensed house receiving boarders a *Register of all Voluntary Boarders*, and a *Case Book for Voluntary Boarders for treatment*.)

Rule annulled, see note to Rule 1 (1).

(3.) (There shall be kept in every house where a single patient is detained a *Medical Journal* and a *Register of Mechanical Restraint*.)

Rule annulled, see note to Rule 1 (1).

(4.) (In every institution for lunatics in which private and pauper patients are admitted there shall be kept a separate *Register of Patients, Medical Journal, and Register of Removals, Discharges, and Deaths for each class of patients*.)

Rule annulled, see note to Rule 1 (1).

Register of
Patients.

2. (The *Register of Patients* shall be in the Form 1 in the Schedule.)

Rule annulled by Rule 2 of the Rules of the Commissioners in Lunacy, 31st October, 1906.

3. (*The Register of Removals, Discharges, and Deaths shall be in the Form 2 in the Schedule.*) **Rule 3.**

Rule annulled by Rule 3 of the Rules of the Commissioners in Lunacy, 31st October, 1906. Register of removals, discharges and deaths.

4. (1.) The Medical Journal to be kept in institutions for lunatics shall be in the Form 3 in the Schedule ; but, if desired, a separate journal may be kept for each sex. Medical Journal.

Seclusion.—The Commissioners in Lunacy hold that any amount of compulsory isolation in the daytime, whereby a patient is confined in a room and separated from all associates, should be considered as “ seclusion ” and recorded accordingly : 13th Rep., p. 67. See also 8th Rep., p. 42 ; 27th Rep., p. 22.

(2.) The Medical Journal in the case of single patients shall be in the Form 4 in the Schedule.

5. The Register of Mechanical Restraint shall be in the Form 5 in the Schedule, and at the beginning of it a printed copy of the regulation made by the Commissioners in Lunacy as to mechanical restraint shall be inserted. Register of Mechanical Restraint.

As to the keeping of this register, see section 40, *ante*, p. 202.

As to sending copies of the entries to the Commissioners, see Rule 18, *post*, p. 532.

6. The Register of Voluntary Boarders shall be in the Form 6 in the Schedule. Register of Boarders.

7. The Post-Mortem Book shall be in the Form 7 in the Schedule. Post-mortem book.

8. (1.) (*The clerk of every asylum, the superintendent of every hospital, and the resident licensee of every licensed house shall, immediately on the reception of a person as a lunatic, make an entry with respect to such lunatic in the Register of Patients according to the form prescribed therein, and containing the particulars therein specified, except as to the form of mental disorder, and the bodily condition and name of disease (if any).)* Notices to be sent on reception.

This rule was annulled by Rule 4 of the Rules of the Commissioners in Lunacy, 31st October, 1906.

Omissions and False Entries.—As to default in making entries, see section 320, *ante*, and as to false entries, see section 318, *ante*.

(2.) (*The entries as to the form of mental disorder and the bodily condition and name of disease (if any) shall be supplied*

Rule 8. *by the medical officer of every asylum, hospital, or house within seven days after the reception of a patient.)*

Rule annulled by Rule 5 of the Rules of the Commissioners in Lunacy, 31st October, 1906.

(3.) The clerk of every asylum, the superintendent of every hospital, and the resident licensee of every licensed house shall, in the case of a person, not a pauper, within one clear day, and in the case of a pauper, and of a criminal lunatic, after the second and before the end of the seventh day after the patient's admission, send to the Commissioners a notice of admission, and also copies of the reception order and of the medical certificate or certificates upon which the same was made, and in the case of reception orders upon petition copies of the petition and statement of particulars ; and shall, in every case after the second and before the end of the seventh clear day after the patient's admission, send to the Commissioners a medical statement to be made and signed by the medical officer of the institution. Where a patient has been admitted under an urgency order which is followed by a reception order made on petition, a copy of such last-mentioned order, together with copies of the petition and certificates on which it was made, shall be transmitted by the same persons respectively to the Commissioners within one clear day after the same order has been obtained.

Computation of Time.—It is apprehended and indeed in practice the "clear days" are reckoned exclusively of the day of admission and of the date of sending the documents.

Medical Statement.—It will be observed that this statement should be made some day not less than two nor more than seven clear days after the admission of the patient. "Clear days" are reckoned exclusively of the date of admission and of the date of the statement.

See as to meaning of "clear days," *Reg. v. Herefordshire Justices*, 3 B. & Ald., 581 ; *Liffin v. Pitcher*, 1 Dowling (N.S.), 767.

(4.) In the case of a pauper and of a criminal lunatic, the notice of admission and statement shall be in the Form 8 in the Schedule, and in the case of a private patient, the notice of admission shall be in the Form 9, and the medical statement shall be in the Form 10 in the Schedule.

(5.) The resident licensee of every licensed house within the jurisdiction of visitors, shall also within the times limited by this rule, send the like documents to the clerk of the visitors.

(6.) The superintendent of every hospital and the resident

licensee of every licensed house shall within one clear day after the reception of a voluntary boarder send to the Commissioners notice of such reception, according to the Form 11 in the Schedule; and shall also within the same period of his death or leaving the hospital or house, send them notice thereof.

Rule 8.

(7.) Every person who has charge of a single patient shall, within the times limited by this rule as regards patients not paupers, send to the Commissioners the like documents concerning such single patient, and shall, with the notice of admission, send a statement of the Christian name and surname and occupation of the occupier of the house, and of the person who has charge of the patient. The medical statement shall be made and signed by the medical practitioner who visits the patient, and who shall therein state his address.

(8.) The clerk of every asylum, and the superintendent of every hospital shall, in the case of a patient admitted as a criminal lunatic, but subsequently detained as a pauper lunatic under an order of a justice made under the Acts relating to criminal lunatics, send to the Commissioners, some day not less than two clear days, nor more than seven clear days, after the patient has ceased to be a criminal, a notice thereof in Form 12, together with a copy of the justice's order for continued detention (which, for the purpose of section 38 of the Lunacy Act, 1890, and section 7 of the Lunacy Act, 1891, is the reception order), and shall within the same limits of time send to the Commissioners a statement to be made and signed by the medical officer of the asylum or hospital.

As to a justice's order for detention under the Acts relating to criminal lunatics, see section 7 of the Criminal Lunatics Act, 1884, *post*, p. 723.

See notes to previous clauses of this rule as to computation of time, default in sending documents, &c.

9. The report to be sent to the Commissioners by the medical officer of every institution for lunatics, and the medical attendant of every single patient, at the expiration of one calendar month after the reception of a private patient, shall be in the Form 13 in the schedule.

Form of report to be sent at the end of a month after reception.

This is the report required to be sent under section 39, *ante*, p. 200. See also section 8 of the Lunacy Act, 1891, 54 & 55 Vict. c. 65, *ante*, p. 475.

10. The entries in the Medical Journal, Case Books, and Post-Mortem Book, to be kept in every institution for lunatics shall be made by the medical officer thereof, or by an assistant

Who to keep Medical Journal and Case Books.

Rule 10. medical officer under his supervision and control, and every such entry shall be signed or initialed by the person making the same.

As to neglect in keeping these books, see section 320, *ante*, p. 431, and *Dr. Seaton's Case* (1881), 35th Rep., p. 125.

As to false entries, see section 318, *ante*, p. 430, and *Reg. v. Maddock*, 5 Cox C. C. x., 6th Rep., p. 19.

How often
entries to be
made in
Medical
Journal.

11. The prescribed entries in the Medical Journal to be kept in institutions for lunatics shall be made once in every week, or in the case of a licensed house at which visits by a medical practitioner at more distant intervals than once a week are permitted, at each visit.

Entries in Small Licensed Houses.—As to licensed houses where visits of a medical practitioner at more distant intervals than once a week are permitted, see section 228 (5), *ante*, p. 346.

Entries as to Visits to Paupers.—As to entries on refusal to allow a visit to a pauper lunatic by the guardians of the union to which he is chargeable, or by their medical man, see section 201 (2), *ante*, p. 331.

Entries in
Case Books
in hospitals
and licensed
houses.

12. Within seven days after the admission of a patient there shall be entered in the Medical Case Book for patients the following particulars :—

- (a.) A statement of the name, age, sex, and previous occupation of the patient, and whether married, single, or widowed, and a copy of the statement of facts contained in the medical certificates accompanying the reception order.
- (b.) An accurate description of the external appearance of the patient upon admission :—of the habit of body, and temperament ; appearance of eyes, expression of countenance, and any peculiarity in form of head ; physical state of the vascular and respiratory organs, and of the abdominal viscera, and their respective functions ; state of the pulse, tongue, skin, &c. ; and the presence or absence, on admission, of bruises or other injuries.
- (c.) A description of the phenomena of the mental disorder :—the manner and period of the attack, with a minute account of the symptoms, and the changes produced in the patient's temper or disposition ; specifying whether the malady displays itself by any, and what delusions, or irrational conduct, or morbid or dangerous habits or propensities ; whether it has occasioned any

failure of memory or understanding ; or is connected with epilepsy, or ordinary paralysis, or general paralysis. Rule 12.

- (d.) Every particular which can be obtained respecting the previous history of the patient :—what are believed to have been the predisposing and exciting causes of the attack ; what were the previous habits, whether active or sedentary, temperate or otherwise ; whether the patient has experienced any former attacks, and if so, at what periods ; whether any relatives have been subject to insanity or other nervous diseases, or phthisis ; whether the present attack was preceded by any and what premonitory symptoms ; and whether the patient has undergone any, and what, previous treatment, or has been subjected to restraint of personal liberty.

13. Subsequent entries describing the course and progress of the case and recording the medical and other treatment, with the results, shall be made in the Case Book for patients at the times hereinafter mentioned, that is to say, once at least in every week during the first month after reception, and oftener when necessary ; afterwards, in recent or curable cases once at least in every month, and in chronic cases, subject to little variation, once in every three months. But all special circumstances affecting the patient, including seclusion and mechanical restraint, and all accidents and injuries, must be at once recorded. A printed copy of this and the last preceding rule shall be inserted at the beginning of every Case Book for patients.

14. In the Case Book for Voluntary Boarders for treatment there shall within seven days after reception be made an entry giving the name, age, sex, previous occupation and residence, of the boarder, and a full and accurate description of his mental and bodily condition.

Entries describing the course and progress of the case shall be subsequently made at the same intervals as are prescribed by the foregoing rule for patients.

As to production of this book to visiting Commissioners or visitors, see section 196 (1) (b), *ante*, p. 328.

15. The medical officer of every institution for lunatics shall, whenever so required by the Commissioners, send to them correct copies of all the entries, or of any particular entries or entry,

How often entries to be made in Case Book.

Entries in Case Book for Voluntary Boarders.

Copies of Case Book entries.

in the Case or Post-Mortem Books relative to any specified patient or boarder who is, or may have been, confined or resident in the institution.

Duties of
medical
attendant
of single
patient.

16. (1.) The medical attendant of a single patient shall, as soon as possible after the admission of the patient, enter on blank pages to be left at the beginning of the Medical Journal a sketch of the previous history of the case, and full particulars of the mental and bodily condition of the patient on admission.

(2.) Such medical attendant shall also at each visit enter in the Medical Journal the date of the visit, and full particulars of the mental and bodily condition of the patient, and all the other particulars indicated in Form 4.

(3.) If the Commissioners allow a single patient to be visited less often than once in every two weeks, and the patient is in the charge of a medical practitioner, such practitioner shall once at least in every two weeks enter in the Medical Journal the particulars prescribed in the last preceding sub-section, together with the date of the entry.

(4.) Every entry to be made under this rule shall be signed by the person who makes the same.

Medical
reports upon
single
patients.

17. Every medical practitioner who visits a single patient, or under whose charge a single patient is, shall on the tenth of January, or within seven days from that time, in every year report in writing to the Commissioners the state of health, bodily and mental, of the patient, with such other circumstances as he may deem necessary to communicate.

Special reports may also be required under section 45, *ante*.

Copies of
entries in
Register of
Medical
Restraint.

18. The superintendent of every asylum and hospital, the resident licensee of every licensed house, and every person having charge of a single patient, shall at the end of every quarter send to the Commissioners a copy of every entry in the Register of Mechanical Restraint made during the quarter. If no such restraint has been used during the quarter, a return to that effect shall be made.

As to the entries in the Register of Mechanical Restraint, see section 40 (4), *ante*, p. 203, and see also Regulation of the Commissioners in Lunacy, dated 25th June, 1913, *post*, p. 564.

Who to keep
Register of
Voluntary
Boarders.

19. The Register of Voluntary Boarders to be kept in hospitals and licensed houses shall be kept by the superintendent or resident licensee thereof.

20. The superintendent of every hospital and the resident licensee of every licensed house shall prepare and keep up accurate lists of the private patients and boarders for the time being on the books of the hospital or house, with the rates of payment made for the maintenance and care and treatment of such patients and boarders respectively ; and such lists shall be at all times accessible to the Commissioners or Commissioner visiting the hospital or house, and, in the case of a house licensed by justices, to the visitors of such house.

Rule 20.

Schedule of rates of payment for private patients and boarders.

As to the production of the lists to visiting Commissioners and visitors, see section 196, *ante*, p. 328.

21. (1.) When application is made to the Commissioners for their consent to the transfer of a private patient from one institution for lunatics to another, or to or from single care, the medical officer of the institution from which the patient is to be removed, or the medical attendant of the single patient, shall furnish the Commissioners with a report as to the patient's mental and bodily condition, and fitness for transfer, and especially as to whether he is suicidal or dangerous to others.

Transfer of patients and leave of absence.

Applications for consent to such transfer are necessary, under section 58, *ante*, p. 220.

(2.) When application is made for the grant by the Commissioners, or by visitors, of leave of absence of a private patient from an institution for lunatics, or of a single patient from the house in which he is received, either for the benefit of the patient's health or on trial, it shall be accompanied by a recommendation from the medical officer of the institution or the medical attendant of the patient.

As to absence on trial or for health, see sections 55, 56, *ante*, pp. 214, 217.

The application or recommendation should clearly show whether the required leave is for the purpose of a " trial " or for health under proper control.

The Board of Control desires that any application for leave of absence for health should be accompanied by a statement of the patient's proposed place of residence and the name of the person who will be in charge. Such information is also desirable, when practicable, in cases of leave of absence for the purpose of a trial.

22. (*The clerk of every asylum, the superintendent of every hospital, and the resident licensee of every licensed house, shall, within two clear days after the removal, discharge, death, or transfer from the private to the pauper class, or vice versa, of any patient, make an entry thereof in the Register of Patients,*

Entries to be made on removal, discharge, or death.

Rule 22. *and also in the Register of Removals, Discharges, and Deaths, according to the form prescribed therein respectively, and in the case of deaths an entry shall be made also in the Medical Journal by the medical officer.)*

This rule was annulled by Rule 8 of the Commissioners' Rules, 31st October, 1906, *post*.

Notices to be sent on removal, discharge, escape, and recapture.

23. (1.) The clerk of every asylum, the superintendent of every hospital, and the resident licensee of every licensed house, and the person having charge of a single patient, shall, within two clear days after the removal, discharge, escape, or recapture of a patient, or his transfer from the private to the pauper class, or *vice versâ*, send written notice thereof to the Commissioners, and also, in the case of a lunatic so found by inquisition, to the Chancery Visitors.

(2.) In the case of a licensed house within the jurisdiction of any visitors, the like notice shall, within the time aforesaid, also be sent by the resident licensee of the house to the visitors.

(3.) Notices of removal and discharge shall be in the Forms 14 and 15 in the Schedule. Notice of escape and recapture shall be in the Forms 16 and 17 in the Schedule. Notice of transfer from the private to the pauper class, or *vice versâ*, shall be in the Form 18 in the Schedule.

(4.) Where upon the discharge of a pauper lunatic from an institution for lunatics the medical officer of the institution certifies, under section 25 of the Lunacy Act, 1890, that the lunatic has not recovered, and is a proper person to be kept in a workhouse as a lunatic, a copy of the certificate shall accompany the notice of discharge.

Notices to be sent of entries on visitation.

24. (1.) The clerk of every asylum, the superintendent of every hospital, and the resident licensee of every licensed house, shall, within two clear days after each visit of one or more of the Commissioners, send to the Commissioners, and in the case of a house licensed by justices, also to the clerk of the visitors, copies of all entries made by any visiting Commissioner or Commissioners at such visit in the Visitors' Book or Patients' Book of the institution.

(2.) The resident licensee of every licensed house shall also, within two clear days after each visit by any visitor, send to the Commissioners and to the clerk to such visitors a true and perfect copy of all entries made by such visitors at such visit in either of the last-mentioned books.

25. The clerk of every asylum, the superintendent of every hospital, and the resident licensee of every licensed house, shall within two clear days after the dismissal for misconduct of any person employed in connection with the care of the patients therein, send notice in writing to the Commissioners of the dismissal and its cause. **Rule 25.**
Notice of dismissal of servants.

26. With respect to patients whose reception orders were dated on or prior to the first day of February, 1890, the special reports and certificates under section 38 of the Lunacy Act, 1890, and section 7 of the Lunacy Act, 1891, shall be included in one list, and shall be furnished according to Form 19 in the Schedule; and with respect to patients whose reception orders are dated subsequently to the first day of February, 1890, a special report and certificate under the above-mentioned enactments shall be made and signed for each such patient in the Form 20 in the Schedule. Special reports and certificates.

This rule embodies similar directions given by the Commissioners in Lunacy by their Circular Letter, dated 16th April, 1890, *post*, p. 570 *seq.*, to which were appended corresponding forms.

See section 38, *ante*, p. 197, and note that in the case of a criminal lunatic admitted to an asylum, but subsequently detained as a pauper lunatic under a justice's order under section 7 of the Criminal Lunatics Act, 1884, *post*, the justice's order is the reception order for the purposes of this rule.

See the Circular Letter of the Commissioners in Lunacy dated May, 1912, and quoted on p. 33 of the 67th Report of the Commissioners in Lunacy, with reference to the need for special examination of each patient mentioned in one list in batch continuation reports.

27. (1.) In case of the death of a patient notice thereof, together with a statement relating thereto, shall, within forty-eight hours of the death, be sent by the manager of the institution for lunatics in which the patient died, or, in the case of a single patient, by the person having charge, to the coroner of the district. Statement and notice as to death.

(2.) The notice in the case of a death in an asylum shall be prepared and signed by the clerk, and the statement shall be prepared and signed by the superintendent, and in any other case the notice and statement shall be prepared and signed by the medical superintendent, or the medical attendant, or the medical person or persons who attended the patient in his last illness, and such notice and statement respectively shall be in the Form 21 in the Schedule.

(3.) In the case of a lunatic dying in an institution for lunatics,

Rule 27. the medical officer of the institution shall, within two clear days after the death, enter, or cause to be entered, a copy of the foregoing statement in the Case Book, and in the case of a single patient the person having charge of him shall, within the like period, enter a copy of the statement in the Medical Journal.

(4.) The clerk of the asylum, the superintendent of the hospital, the resident licensee of the house, or, in the case of a single patient, the person who had charge shall, within forty-eight hours of the death of a patient, send a like notice and statement—

- (a.) To the Commissioners ;
- (b.) To the relation or one of the relations named in the statement accompanying the order for the reception of the patient, or, if none be known, to the persons named for the purpose in such statement ;
- (c.) To the registrar of deaths for the district ;
- (d.) In the case of a licensed house within the jurisdiction of any visitors, also to the clerks of the visitors ;
- (e.) In the case of a lunatic so found by inquisition, also to the Chancery Visitors ;
- (f.) If the patient was not a pauper, also to the person upon whose petition the order for the admission of the patient was made, or who made the last payment on account of the patient ;
- (g.) If the patient was a pauper, also to the clerk to the guardians of the union, or the clerk of the local authority to which the patient was chargeable.

Registration of Death.—The above rule is quite independent of the law relating to registration of deaths, contained in sections 10, 20, and 48 of the Births and Deaths Registration Act, 1874, 37 & 38 Vict. c. 88. By section 10 of that Act, when a person dies in a house (which under section 48 includes a lunatic asylum or hospital), it is the duty (amongst others) of the occupier (a term including the superintendent or other chief officer of a lunatic asylum or hospital), to give, to the best of his knowledge and belief, to the registrar within the five days next following the day of such death, information of the particulars required to be registered concerning such death, and in the presence of the registrar to sign the register. And by section 20 of the same Act in case of the death of any person who has been attended during his last illness by a registered medical practitioner, that practitioner shall sign, and give to some person required by this Act to give information concerning the death, a certificate stating to the best of his knowledge and belief, the cause of death, and such person shall, upon giving information concerning the death, or giving the notice of the death, deliver that certificate to the registrar. But where an inquest is

held, no such certificate is necessary, the coroner's certificate of the finding of the jury being sufficient. **Rule 27.**

NOTE.

28. The clerk of every asylum, the superintendent of every hospital, and the resident licensee of every licensed house, shall, within seven days after the happening thereof, send to the Commissioners notice of every change in the medical staff of such institutions respectively. Notice of change in medical staff.

29. (1.) The clerk of every asylum shall, on the first of January and the first of July in every year, prepare a list, made up to those dates, of all pauper lunatics then in the asylum, according to the Form 22 in the Schedule. Half-yearly lists of patients in asylum to be made up.

(2.) Within fifteen days after the list is prepared, the clerk shall lay a copy before the committee of visitors, and shall send a copy to the Commissioners and to the clerk of each local authority to which the asylum belongs, to be laid before the local authority.

(3.) The clerk of every asylum receiving private patients shall on the first of January and the first of July in every year, prepare a list, made up to those dates, containing the Christian names and surnames of all the private and criminal patients then in the asylum, according to the Form 23 in the Schedule, and shall, within fifteen days after the list is prepared, send a copy to the Commissioners; and shall, within the same time, transmit to the clerk of each such local authority for the purpose aforesaid, a certificate under his hand of the number of private and criminal patients of each sex.

30. The clerk to the committee of visitors of every asylum shall, within twenty-one days after their annual report has been laid before the local authority by the committee of visitors, transmit a copy to the Commissioners. Report of visiting committee to be sent to Commissioners.

31. The medical superintendent of every asylum, the superintendent of every hospital, and the resident licensee of every licensed house receiving pauper lunatics, shall, half-yearly on the first day of January and the first day of July, send to the guardians of every union a statement of the mental and bodily condition of every pauper lunatic chargeable to the union. Statement of condition of pauper lunatics.

32. (1.) In the case of pauper lunatics not in an institution for lunatics, the medical officer of every district of a union and of every workhouse shall, within seven days after every thirty-first of March, thirtieth of June, thirtieth of September, and thirty-first of December, make a return of all such lunatics visited by him during the preceding quarter; or if there were Quarterly return of pauper lunatics not in an institution for lunatics.

Rule 32. no such lunatics within the district or workhouse of which he is medical officer, shall make a return to that effect.

As to default in making returns, see section 320, *ante*, p. 431, and *Speed's Case*, 37th Rep., p. 108.

(2.) Such returns shall be in the Forms 24 and 25 in the Schedule, and shall, within the time aforesaid, be delivered or sent to the clerk to the guardians of the union to which the return relates.

(3.) The clerk receiving the return shall, within two clear days after receipt thereof, make a copy thereof, and shall, within the same period, send the return to the Commissioners, and the copy to the clerk to the committee of visitors of the asylum for the county or borough in which the union for which he is clerk is wholly or partly situate.

As to default in sending copies, see section 320, *ante*, p. 431, and prosecutions, 42nd Rep. and 46th Rep.

The proper course is for clerks to transmit all copies of returns duly received by them together to the office of the Commissioners within ten days from the end of the quarter, and at the same time to state what returns, if any, are wanting, with the names or numbers of the districts and the names of the defaulting medical officers.

Annual
return by
clerks to
boards of
guardians.

33. The clerk of the board of guardians of every union shall, on the first of January in every year, or as soon after as possible, make out and sign a complete list or lists in the Form 26 in the Schedule, made up to that date, of all lunatics chargeable to the union, giving, when necessary, in a separate sheet, a list of the lunatics chargeable to each part of the union which is situate in the area of a different local authority as defined by the Lunacy Act, 1890, section 240 ; and shall, on or before the first of February following, send copies of the lists to the following authorities :—

- (a.) The Local Government Board ;
- (b.) The Commissioners ;
- (c.) The committee of visitors of the asylum of the county or borough, or each county or borough in which the union is wholly or partly situate ;
- (d.) The clerk of the local authority within the area whereof the union is wholly or partly situate, to be laid before the local authority.

It will be observed that these lists include all lunatics chargeable to the union, thus excluding non-settled pauper lunatics, but including non-resident pauper lunatics. The necessary information regarding lunatics

in asylums will be obtained from the statements of the medical superintendents under Rule 31, *ante*, p. 537.

Rule 33.

NOTE.

34. All entries to be made under these Rules shall be made in a manner so clear and distinct as to admit of being easily referred to and extracted whenever the Commissioners shall so require, and all notices shall be sent on white paper of foolscap size.

Entries to be clear and distinct.

35. The manager of every institution for lunatics, and the clerk of every asylum, shall furnish to the Commissioners, at such times and in such form as they may from time to time prescribe, such annual and other returns and information of or in any way relating to the institution, or the patients of or boarders in the institution, as the Commissioners may, in their discretion, require.

Returns and information to be furnished by managers.

36. (1.) Every applicant for a licence for a house in substitution for a house already licensed, shall at least thirty clear days before a quarterly or other meeting of the Commissioners, or before a quarter or special sessions of the licensing justices, give notice of the application—

Application for licences.

- (a.) If the house is within the immediate jurisdiction of the Commissioners, to the Commissioners ;
- (b.) If elsewhere, to the clerk of the peace for the county or borough in which it is situate, and also to the Commissioners.

(2.) The notice shall contain—

- (a.) The Christian name and surname, place of abode, and occupation of the proposed licensee ;
- (b.) The Christian name and surname of the person who is to reside in the house ; and a full description of the estate or interest therein of the proposed licensee.

(3.) The applicant shall send with his notice the following documents :—

- (a.) A plan of the house and all buildings to be included in the licence, drawn upon a scale of eight feet to an inch, with a description of the situation of the house, and the length, breadth, and height of, and a reference by a figure or letter to every room therein, distinguishing the rooms to be appropriated to patients from those to be occupied by the family and domestic servants of the resident licensee ; also a plan of the drains and a statement as to the mode and disposal of the sewage, and as to the water supply ;

- (b.) A statement of the quantity of land not covered by

Rule 36.

building annexed to the house, and appropriated to the exclusive use, exercise, and recreation of the patients, with a plan thereof drawn to the scale of 100 feet to an inch ;

(c.) A statement of the number of patients of each sex to be received, and of the means by which the sexes are to be kept apart.

(4.) The notice and accompanying documents when sent to a clerk of the peace, shall by him be laid before the justices when they consider the application for the licence.

On renewal of licence, statement to be furnished of the number and class of patients detained.

37. (1.) Every person applying for the renewal of a licence shall at least fourteen clear days before a quarterly or other meeting of the Commissioners, or before a quarter or special sessions of the licensing justices, give notice in the case of a house licensed by the justices both to the Commissioners and to the clerk of the peace for the county or borough, and in the case of a house licensed by the Commissioners, to the Commissioners, of the application for renewal, accompanying his notice with a statement signed by the applicant, containing the names and number of the patients of each sex then detained in such house, and distinguishing between private and pauper patients.

(2.) Copies of all entries made since the last renewal of the licence by the visiting Commissioners in the Visitors' Book of a house licensed by justices shall be laid before the justices upon every application for a renewal of the licence.

Notice of alterations and additions to licensed houses.

38. (1.) Before any alteration or addition is made to, in, or about a licensed house, or its appurtenances, the licensee shall send notice in writing of the proposed alteration or addition to the Commissioners, and, in the case of a house licensed by justices of a county or borough, to the clerk of the peace of the county or borough.

(2.) Such notices shall be accompanied by full descriptions of the proposed alteration or addition, with plans drawn to a scale of eight feet to an inch.

Plans of hospitals.

39. (1.) With every application for the registration of a hospital for the reception of lunatics the following plans shall be sent to the Commissioners :

(a.) A general plan, to the scale of one hundred feet to an inch, of the land proposed to be occupied with the hospital, with a block plan of the buildings drawn thereon, and showing the positions and area of the exercise grounds, gardens, and roads of approach.

Rule 39.

- (b.) Plans of the basement, ground, and every other floor of the principal buildings and offices, and also of the roofs, with the dimensions of the rooms and the thicknesses of the walls.
- (c.) Elevations of the fronts and sides of the principal buildings and offices.
- (d.) Transverse and longitudinal sections sufficient to show the heights of the various rooms in the buildings.
- (e.) A general plan showing the courses of the drains and the manner in which the sewage will be disposed of.
- (2.) The plans (b) to (e) inclusive shall be drawn to a scale of eight feet to an inch.

(3.) There shall also be furnished with every application a concise description of the hospital buildings, with the number of patients and boarders to be received therein, and of the systems of heating, lighting, and ventilation adopted, and of the water supply; and the plans shall show the manner in which the various portions of the buildings are to be appropriated to the different classes and sexes of patients to be received.

As to buildings not shown on the plans, see section 233, *ante*, p. 352.

40. (1.) Before any alteration or addition is made to, in, or about any hospital, the superintendent shall send notice in writing of the proposed alteration or addition to the Commissioners.

Notice of alterations and additions to hospitals.

(2.) Every such notice shall be accompanied by plans and descriptions similar to those specified in the last preceding Rule.

41. The Commissioners may require the superintendent of any hospital to furnish, at the cost of the hospital, such plans of all or any of the buildings used for the purposes of the hospital as, being of the description hereinbefore specified, the Commissioners may think fit.

Hospitals already registered to furnish plans.

42. The superintendent of every hospital shall within one calendar month next after the accounts of the hospital shall have been submitted to the Charity Commissioners, or have been audited, send to the Commissioners an abstract of the accounts in such form as the Commissioners shall from time to time prescribe. He shall also, within a month after its publication, send to them a printed copy of the annual report of the hospital.

Abstracts of hospital accounts to be sent to Commissioners.

As to the audit of accounts, see section 234, *ante*, p. 353.

43. These Rules shall come into operation on the first of September, one thousand eight hundred and ninety-five, on which day the Rules of the twenty-ninth of March, one thousand eight hundred and ninety, shall cease to have effect.

Form 1.

This form, though still in use for cases admitted before the new rules came into force, has been superseded by Form 1(a) in the Schedule of the Rules of the Commissioners in Lunacy, 31st October, 1906, *post*, p. 558.

FORM 1.

REGISTER OF PATIENTS.

Date of last previous Admission, if any.	No. in Order of Admission.	Date of Admission.	Date of Reception (Order.	Date of continuation of Reception Order.	Christian and Surname at Length.	Sex.		Age.	Condition as to Marriage.			Condition of Life, and previous occupation.	Previous Place of Abode.	Union, County, or Borough to which chargeable.	By whose Authority sent.	Dates of Medical Certificates, and by whom signed.	Form of Mental Disorder.	Supposed Cause of Insanity.	Bodily Condition, and Name of Disease, if any.	Epileptic.	Congenital Idiot.	Duration of existing Attack.			Number of previous Attacks.	Age on first Attack.	Date of Removal, Discharge, or Death.	Removed or Discharged.			Observations.	
						M.	F.		Married.	Single.	Widowed.											Years.	Months.	Weeks.				Recovered.	Relieved.	Not improved.		Died.
1	1880: Jan. 3	William Johnson	1	23	..	1	..	..	1	..	Carpenter	..	..	..	..	..	Melancholia.	..	..	..	..	..	4	..	17	1881: Sept. 7	1	..	..	..	..	..
2	1882: June 9	William Johnson	1	25	..	1	..	..	1	..	..	..	..	..	..	..	..	..	..	..	..	7	..	..	..	1883: Dec. 2	1	..	..	..	..	..
3	1883: July 6	William Johnson	1	29	1	..	..	1	..	..	..	..	..	..	..	..	..	..	..	..	..	3	..	..	..	1884: June 8	..	..	..	..	..	..

This form, though still in use for cases admitted before the new rules came into force, has been superseded by Form 2A in the Schedule of the Rules of the Commissioners in Lunacy, 31st October, 1906, *post*, p. 560.

FORM 2.

REGISTER OF REMOVALS, DISCHARGES, AND DEATHS.

Date of Removal, Discharge, or Death.	Date of last Admission.	No. in Register of Patients.	Christian and Surname at Length.	Sex.			Discharged.						Removal, and where removed.			Died.		Assigned Cause of Death.	Whether post-mortem made or not.	Age at Death.		Observations.
				M.	F.		Re-covered.	Re-lieved.	Not im-proved.	M.	F.	M.	F.	Re-lieved.	Not im-proved.	M.	F.			M.	F.	
1881 : Sept. 1 ..	1880 : Jan. 3 ..	1	William Johnson	1	—	1																
1883 : Dec. 2 ..	1882 : June 9 ..	3	William Johnson	1	—	1																
1884 : June 8 ..	1883 : May ..	3	William Johnson	1	—												1	—	Phthisis			

Form 2.

Forms 3 & 4.

FORM 3.
MEDICAL JOURNAL TO BE KEPT AT ASYLUMS, HOSPITALS, AND LICENSED HOUSES.

Date.	Number of Patients.		Patients who are or since the last entry have been in seclusion, when, and for what period, and reasons.		Patients under medical treatment, and for what, if any, bodily disorder.		Deaths, injuries, and violence to patients, since the last entry.
	Males.	Females.	Males.	Females.	Males.	Females.	

FORM 4.
MEDICAL JOURNAL FOR SINGLE PATIENTS.

Date.	Mental condition ; what evidence of insanity ; Any and what change since last visit.	Bodily Health and Condition.	Seclusion since last visit ; when and for how long.	Visits of friends ; date of visit ; name of friend.	State of house and furniture, bed and bedding. Supply, and condition of wearing apparel.	Is the dietary proper ? If not, state in what respect.	Employment, exercise, and amusements.

FORM 5.
REGISTER OF MECHANICAL RESTRAINT.

Date.	Names of Patients.		Means of Restraint employed.	Duration in Hours.	Certificate of Medical Superintendent, or Medical Attendant, stating grounds upon which the restraint was employed.
	Male.	Female.			
		C. S. Burns.	Strait waistcoat.	20	I certify that restraint was employed in this case on the following grounds :— (Signed) Medical Superintendent or Medical Attendant.

FORM 6.
REGISTER OF VOLUNTARY BOARDERS.

Date of Reception into Institution.	Names, Occupation, and Residence of Boarders.		Term for which Residence is permitted.	Extended Term and Date of Consent to the Extension.	Names of Commissioners or Justices consenting to Reception or Extension of Term, where such Consent necessary.	Reception, whether for Treatment, or as Relative or Friend of a Patient.	Date of Death or of leaving the Institution.
	Male.	Female.					

Forms 5 & 6.

Form 7.

FORM 7.

[Name of Asylum, Hospital, *or* House.]

POST-MORTEM NOTES.

Name and number in Register of Patients

Sex, age, and previous occupation

Date of admission

Date of death

Form of mental disorder { on admission
at death

Certified cause of death

Case Book. Vol. , p. .

Date and hour of post-mortem examination

Condition of body and external
appearances, and whether or
not bedsores present }

Head

Thorax (describe condition of ribs)

Abdomen

Weights of Organs

Microscopic appearances and any special notes

(Signed)

[These headings may be added to and the spaces increased or diminished according to the judgment of Superintendents.]

FORM 8.

[Name of Asylum, Hospital, *or* House.]

NOTICE OF ADMISSION.

Date of reception order, the day of .

I hereby give you notice that was admitted into this asylum
[*or* hospital *or* house] as a pauper [*or* criminal] patient on the day
of , and I hereby transmit a copy of the order and statement of
particulars and medical certificates on which he [*or* she] was received.

Subjoined is a statement with respect to the mental and bodily condition
of the patient.

(Signed)

Clerk *or* Medical Superintendent *or* Resident Licensee.

Dated the day of .

To the Commissioners in Lunacy

[*or as the case may be*].

See note to Form 9.

STATEMENT.

I have this day [*some day not less than two clear days, nor more than seven
clear days, after the admission of the patient*] seen and examined the patient
mentioned in the above notice, and hereby certify that with respect to
mental state he [*or* she] [*describing it*] and with respect to bodily health
and condition he [*or* she] [*describing it*].

Dated the day of .

(Signed)

Medical Officer.

FORM 9.

Form 9.

[Name of Asylum, Hospital, or House.]

NOTICE OF ADMISSION.

Date of reception order, the day of .

I hereby give you notice that was admitted into this asylum [or hospital or house] as a private patient on the day of , and I transmit [a copy of the urgency order and medical certificate or] a copy of the order and medical certificates and of the petition and statement of particulars on which he [or she] was received.

A statement with respect to the mental and bodily condition of the above-named patient will be forwarded in due course.

(Signed)

Clerk or Medical Superintendent or Resident Licensee.

Dated the day of .

To the Commissioners in Lunacy

[as the case may be].

All notices in these rules addressed to the Commissioners in Lunacy, should now be addressed to the Board of Control.

FORM 10.

[Name of Asylum, Hospital, or House.]

MEDICAL STATEMENT.

I have this day [some day not less than two clear days, nor more than seven clear days, after admission of the patient] seen and examined , admitted into this asylum [or hospital, or house] on the day of , and hereby certify that with respect to mental state he [or she] [describing it] and with respect to bodily health and condition he [or she] [describing it].

Dated the day of .

(Signed)

Medical Officer.

To the Commissioners in Lunacy

[or as the case may be].

See note to Form 9.

FORM 11.

[Name of Asylum, Hospital, or House.]

NOTICE OF ADMISSION OF A BOARDER.

I hereby give you notice that was received into this hospital [or house] on the day of as a voluntary boarder, for treatment or as a relative or friend of a patient].

(Signed)

Medical Superintendent, or Resident Licensee.

Dated the day of .

To the Commissioners in Lunacy.

See note to Form 9.

Form 12.

FORM 12.

[Name of Asylum or Hospital.]

NOTICE OF TRANSFER FROM THE CRIMINAL TO THE PAUPER CLASS.

Date of reception order, the day of .

I hereby give you notice that , who was received into this asylum [or hospital] as a criminal lunatic on the was on the transferred to the pauper class, and I herewith transmit a copy of the justice's order on which he is detained.

Subjoined is a statement with respect to the mental and bodily condition of the patient.

(Signed)

Clerk or Superintendent.

Dated the day of .
To the Commissioners in Lunacy.

STATEMENT.

I have this day [*some day not less than two clear days, nor more than seven clear days, after the patient has ceased to be a criminal*] seen and examined the patient mentioned in the above notice, and hereby certify that with respect to mental state he [or she] [*describing it*] and with respect to bodily health and condition he [or she] [*describing it*].

Dated the day of .

(Signed)

Medical Officer.

See note to Form 9.

FORM 13.

[Name of Asylum, Hospital, or House.]

REPORT AS TO PRIVATE PATIENT.

(To be sent at the expiration of *one calendar month after reception.*)

I have this day seen and examined received here on the day of and report that with respect to mental condition he is , and that with respect to bodily condition he is .

Dated the day of .

(Signed)

Medical Officer or Medical Attendant.

To the Commissioners in Lunacy.

See note to Form 9.

FORM 14.

[Name of Asylum, Hospital, or House.]

NOTICE OF REMOVAL.

Date of reception order, the day of .

I hereby give you notice that , a private [or pauper or criminal] patient received into this asylum [or hospital or licensed house or house]

on the day of , was, on the day of , removed Form 14.
to relieved [or not improved] by the authority of .
(Signed)

Clerk, or Superintendent, or Resident
Licensee, or the person having charge
of the said lunatic as a single patient.

Dated the day of .
To the Commissioners in Lunacy
[or as the case may be].

See note to Form 9.

FORM 15.

[Name of Asylum, Hospital, or House.]

NOTICE OF DISCHARGE.

Date of reception order, the day of .
I hereby give you notice that , a private [or pauper, or criminal]
patient, received into this asylum [or hospital or licensed house or house]
on the day of , was discharged therefrom recovered [or
relieved or not improved] on the day of by the authority
of .

(Signed)

Clerk, or Superintendent, or Resident
Licensee, or the person having charge
of the said lunatic as a single patient.

Dated the day of .
To the Commissioners in Lunacy
[or as the case may be].

See note to Form 9.

FORM 16.

[Name of Asylum, Hospital, or House.]

NOTICE OF ESCAPE.

I hereby give you notice that , a private [or pauper, or criminal]
patient received into this asylum [or hospital or licensed house or house]
on the day of , escaped therefrom on the day of .

The state of mind of the patient at the time of his escape was as follows
[describe it].

The circumstances and manner of the escape were as follows [state them].

(Signed)

Clerk, or Superintendent, or Resident
Licensee, or the person having charge
of the said lunatic as a single patient.

Dated the day of .
To the Commissioners in Lunacy.
[or as the case may be].

See note to Form 9.

Form 17.

FORM 17.

[Name of Asylum, Hospital, *or* House.]

NOTICE OF RECAPTURE.

I hereby give you notice that , a private [*or* pauper *or* criminal] patient who was received into this asylum [*or* hospital *or* licensed house *or* house] on the day of , and escaped therefrom on the day of , was on the day of recaptured under the following circumstances [*state them*].

(Signed)

Clerk, *or* Superintendent, *or* Resident Licensee, *or* the person having charge of the said lunatic as a single patient.

Dated the day of
To the Commissioners in Lunacy
[*or as the case may be*].

See note to Form 9.

FORM 18.

[Name of Asylum, Hospital, *or* House.]

NOTICE OF TRANSFER FROM PRIVATE TO PAUPER CLASS OR VICE VERSÂ.

I hereby give you notice that admitted into this asylum [hospital *or* house] as a private [*or* pauper] patient on the day of , was on the day of transferred to the pauper [*or* private] class.

Dated the day of .

(Signed)

Clerk, *or* Superintendent, *or* Resident Licensee.

To the Commissioners in Lunacy.

See note to Form 9.

FORM 19.

[Name of Asylum, Hospital, *or* House.]

SPECIAL REPORTS and CERTIFICATES as to PATIENTS admitted under Orders dated Three Months or more prior to May 1, 1890.

(LUNACY ACT, 1890, SECTION 38 ; LUNACY ACT, 1891, SECTION 7.)

Note.—Male and female patients must be returned in separate lists. The names must be in alphabetical order of the initial letters, and those of each initial in order of date of admission.

Date of Admission.	Dates of the Reception Orders.	Names of Patients.	Report as to Mental Condition.	Report as to Bodily Condition.

I certify that all the patients named on this sheet are still of unsound mind, and proper persons to be detained under care and treatment. Form 19.

(Signed)

Dated the day of .

Medical Officer.

To the Commissioners in Lunacy.

See note to Form 9.

FORM 20.

(Private or Pauper.)

[Name of Asylum, Hospital, or House.]

SPECIAL REPORT AND CERTIFICATE.

(LUNACY ACT, 1890, SECTION 38 ; LUNACY ACT, 1891, SECTION 7.)

No.*

Name of patient

Date of admission

Date of reception order

* For use by
Commis-
sioners in
Lunacy only.

I have this day seen and examined the above-named patient, and beg to report that with regard to mental condition, he [*or she*] is and with regard to bodily condition, he [*or she*] is and I hereby certify that he [*or she*] is still of unsound mind, and a proper person to be detained under care and treatment.

(Signed)

Medical Officer.

Dated the day of .

To the Commissioners in Lunacy.

See note to Form 9.

FORM 21.

This form has been twice superseded, first by a Rule dated 5th April, 1911, and finally by a Rule of the Commissioners dated 4th December, 1912, *post*, p. 562. The present form is here given.

[Name of Asylum, Hospital, or House.]

NOTICE OF DEATH.

Date of reception order, the day of .

I hereby give you notice that , a [*private*] patient received into this asylum [*or hospital or house*] on the day of , died therein on the day of .

(Signed)

Clerk of Asylum *or* Medical Officer of Hospital, *or* House, *or* Medical Attendant of the patient.

Dated the day of .

To the Commissioners in Lunacy

[*or as the case may be*].

See note to Form 9.

Form 21.

STATEMENT RESPECTING THE ABOVE-NAMED PATIENT.

Name

Sex and age

Married, single, or widowed

Profession or occupation

Usual residence (postal address) before admission. [If the patient has been transferred from another Institution (including Workhouses, &c.), the place of residence before admission to the first Institution should be given.]

Cause of Death.	Duration of Disease from onset.			
	Years.	Calendar Months.	Days.	Hours.
† <i>i.e.</i> the disease which initiated the train of events leading to death, and <i>not</i> a mere secondary, contributory, or immediate cause, or a terminal condition or mode of death. † A terminal condition or mode of death should not be entered as a secondary (or contributory) cause.	Primary† (1.)			
	Secondary‡ (2.) (Contributory)			

Whether or not ascertained by post-mortem examination

Time and any unusual circumstances attending the death ; also a description of any injuries known to exist at time of death or found subsequently on body of deceased, or a statement that there were none

Names and description of persons present at the death

Whether or not mechanical restraint was applied to deceased within seven days previously to death, with its character and duration if so applied

(Signed)

Medical Officer of Asylum, or Hospital, or House, or Medical Attendant of patient.

FORM 22.

NAMES of all [male] or [female], as the case may be, pauper lunatics in the asylum at for the county [or borough, &c., as the case may be], of on the 1st day of January or July .

Note.—Male and female patients must be returned in separate lists.

Rules.

Statutory Rules and Orders, 1906.

No. 822.

LUNATIC, ENGLAND.

INSTITUTIONS FOR LUNATICS—BOOKS AND REGISTERS.

RULES, DATED OCTOBER 31, 1906, MADE BY THE COMMISSIONERS IN LUNACY UNDER THE LUNACY ACTS, 1890 AND 1891, WITH THE APPROVAL OF THE LORD CHANCELLOR.

Rule 1 of the Commissioners' Rules, 1895.

1. Rule 1 is hereby annulled and the following rule shall stand in lieu thereof :—

(1.) There shall be kept in every institution for lunatics :—

- (a) a visitors' book.
- (b) a register (civil) of patients.
- (c) a register (medical) of patients.
- (d) a register of discharges and transfers.
- (e) a register of deaths.
- (f) a medical journal.
- (g) a register of mechanical restraint.
- (h) a medical case-book for patients.
- (i) a post-mortem book.

(2.) There shall also be kept in every asylum receiving private patients, hospital and licensed house, a patients' book, and in every hospital and licensed house receiving boarders a register of all voluntary boarders, and a case-book for voluntary boarders for treatment.

(3.) There shall be kept in every house where a single patient is detained a medical journal and a register of mechanical restraint.

(4.) In every institution for lunatics into which private and pauper patients are admitted the registers and medical journals for each class of patients may be kept in separate books, or parts of a book.

Rule 2 of the Commissioners' Rules, 1895.

2. Rule 2 is hereby annulled and the following rule shall stand in lieu hereof :—

(1.) The civil register of patients shall be in the Form 1A in the schedule.

(2.) The medical register of patients shall be in the Form 1B in the schedule.

In this register separate books or portions of a book shall be assigned for (a) each sex ; (b) direct admissions, which shall be taken to mean admissions of persons on new certificates and new

orders, but shall not include admissions upon transfer or readmissions rendered necessary by irregularity in, or lapse of, previous reception orders; (c) cases admitted under an order of transfer.

Rules.
—

Rule 3 of the Commissioners' Rules, 1895.

3. Rule 3 is hereby annulled and the following rule shall stand in lieu thereof:—

(1.) The register of discharges and transfers shall be in the Form 2A in the schedule.

(2.) The register of deaths shall be in the Form 2B in the schedule.

Rule 8 (1) of the Commissioners' Rules, 1895.

4. Rule 8 (1) is hereby annulled and the following rule shall stand in lieu thereof:—

The clerk of every asylum, hospital, and licensed house, or in institutions having no clerk on the staff, the superintendent or resident licensee, shall immediately on the reception of a person as a lunatic make an entry with respect to such lunatic in the civil register of patients, according to the form prescribed therein, and containing the particulars therein specified.

Rule 8 (2) of the Commissioners' Rules, 1895.

5. Rule 8 (2) is hereby annulled and the following rule shall stand in lieu thereof:—

The entries in the medical register, other than those which are duplicate entries of those in the civil register made on admission by the clerk, shall be supplied by the medical officer of every asylum, hospital or house within three months from the date of the reception of the patient.

Rule 22 of the Commissioners' Rules, 1895.

6. Rule 22 is hereby annulled and the following rule shall stand in lieu thereof:—

The clerk in every asylum, the superintendent of every hospital and the resident licensee of every licensed house shall, within two clear days after the removal, discharge, death, or transfer from the private to the pauper class, or *vice versa* [Lunacy Act, 1890, section 37 (1)] of any patient, make an entry thereof in the civil register of patients and also in the register of discharges and transfers and in the register of deaths, according to the form prescribed therein respectively, and in the case of deaths an entry shall be made also in the medical journal by the medical officer.

Form No. 1, Schedule to Commissioners' Rules, 1895.

7. Form No. 1 in the Schedule is hereby annulled and the following forms are substituted therefor :—
Schedule.

FORM 1A.
CIVIL REGISTER.

Date of previous Admission (if any).		No. in order of Admission.		Date of Admission.		Dates of Reception Order and of "Urgency Order" (if any). Put after its date.		Date of last Continuation of Reception Order. (L.A., 1890, sec. 38, and L.A., 1891, sec. 7.)		A direct Admission.		A Transfer.		Irregularity in Orders, etc.		Lapsed Orders. (L.A., 1890, sec. 38, and L.A., 1891, sec. 7.)		Private. (Mark Criminal as such in red ink.)		Pauper.		Usual Place of Abode.		Whence Brought.		Sex.		Civil State.		Religion.		Union, County, or Borough to which chargeable.		By whose authority sent, and name and address of Petitioner (if any).		Dates of Medical Certificates, and by whom signed.		Date of Discharge, Transfer, or Death.		Recovered.		Relieved.		Not Improved.		Relieved.		Not Improved.		Transferred.		Died.		Observations.	
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Schedule.

FORM 1B.

MEDICAL REGISTER.

Date of Admission.		No. in Civil Register.		Date of Discharge, Transfer, or Death.		Private. (Mark Criminal as such in red ink.) Brought forward. Pauper.		Totals where possible ...	
Civil State.		Single. Married. Widowed. Not known.		Name of.		Group. Sub-group. Sub-division.		Previously Certified as Insane, stating number of times. On Present Admission. At Onset of Present Attack. On First Attack (if not a First Attack Case). Congenital.	
Age.		First Attack. Not First Attack. Unknown if First Attack or not.		Attack.		If not First Attack, number of Previous Recovers in an Institution or Elsewhere. Years. Months. Days.		Duration of the Present Attack from the Onset until Present Admission. No entry to be made in respect to cases where the attack is congenital.	
Occupation (as scheduled by the Commissioners in Lunacy).		Name of. Group. Sub-group. Sub-division.		Principal. Contributory.		Etiological Factors (as scheduled by the Commissioners in Lunacy). As many Contributory Factors as may be found are to be entered here. Schedule-symbols.		Bodily State on Admission. Names of Bodily Disease (if any). General Health.	
Form.		Schedule-symbols.		Form of Mental Disorder (as scheduled by the Commissioners in Lunacy).		Deemed Suicidal by Medical Officer. Observations (for Congenital Physical Abnormalities, &c.).			

Rules.

9. These rules may be cited as the Commissioners' Lunacy Rules, 1906, and each rule may be cited separately by the heading thereof with reference to the Commissioners' Rules, 1895. They shall come into operation on the 1st January, 1907.

Sealed with the common seal of the
Commissioners in Lunacy by order } (L.S.)
of the Board in the presence of }

A. H. Trevor,

Secretary,

66, Victoria Street, London, S.W.,

the 31st day of October, 1906.

Approved,

Loreburn, C.

Statutory Rules and Orders, 1912.

No. 1776.

LUNATIC, ENGLAND.

INSTITUTIONS FOR LUNATICS:—REPORTS AND RETURNS.

RULES, DATED DECEMBER 4, 1912, MADE BY THE COMMISSIONERS IN LUNACY WITH THE APPROVAL OF THE LORD CHANCELLOR, AMENDING RULES OF JUNE 26, 1895.

Rule 27 (2). Form 21. New Form in substitution therefor.

FORM 21.

[Name of Asylum, Hospital, or House.]

NOTICE OF DEATH.

Date of reception order, the day of

I hereby give you notice that , a [private] patient received into
this asylum [or hospital or house] on the day of , died therein
on the day of .

(Signed)

Clerk of Asylum or Medical Officer of
Hospital, or House, or Medical Atten-
dant of the patient.

Dated the day of .

To the Commissioners in Lunacy (now the Board of Control).

* [or as the case may be].

* When sent to the Registrar of Deaths the following paragraph should be added to the above form:—

“I hereby certify that, to the best of my knowledge and belief, the particulars contained in the above statement are true.”

The above instructions were issued in a circular letter of the Commissioners in Lunacy, dated 10th March, 1913, wherein it was stated that the addition was required in order to comply with the requirements of section 20 of the Registration Act, 1874.

STATEMENT RESPECTING THE ABOVE-NAMED PATIENT.

Rules.

Name

Sex and age

Married, single, or widowed

Profession or occupation

Usual residence (postal address) before admission. [If the patient has been transferred from another Institution (including Workhouses, &c.), the place of residence before admission to the first Institution should be given.]

Cause of Death.	Duration of Disease from onset.			
	Years.	Calendar Months.	Days.	Hours.
† <i>i.e.</i> , the disease which initiated the train of events leading to death, and <i>not</i> a mere secondary, contributory, or immediate cause, or a terminal condition or mode of death.				
Primary† (1.)				
Secondary‡ (2.) (Contributory)				
‡ A terminal condition or mode of death should not be entered as a secondary (or contributory) cause.				

Whether or not ascertained by post-mortem examination

Time and any unusual circumstances attending the death; also a description of any injuries known to exist at time of death or found subsequently on body of deceased, or a statement that there were none

Names and description of persons present at the death

Whether or not mechanical restraint was applied to deceased within seven days previously to death, with its character and duration if so applied

(Signed)

Medical Officer of Asylum, or Hospital, or House, or Medical Attendant of patient.

Sealed with the Common Seal of the Commissioners in Lunacy by Order of the Board in the presence of

(L.S.)

O. E. Dickinson,
Secretary.

66, Victoria Street, London, S.W.,
the 4th day of December, 1912.

Approved,
Haldane, C.

Rules.

Statutory Rules and Orders, 1913.

No. 282.

LUNATIC, ENGLAND.

INSTITUTIONS FOR LUNATICS.

RULE, DATED MARCH 12, 1913, MADE BY THE COMMISSIONERS IN LUNACY
WITH THE APPROVAL OF THE LORD CHANCELLOR.

Lunacy Act, 1890. In Form 7 in the Second Schedule the words "of county courts" shall be inserted after the word "judge," and the words "having jurisdiction in the district within which I am detained" shall be omitted.

Sealed with the Common Seal of the Commissioners in Lunacy by Order of the Board in the presence of	}	(L.S.)
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O. E. Dickinson,
Secretary,

66, Victoria Street, London, S.W.,
the 12th day of March, 1913.

Approved,
Haldane, C.

Statutory Rules and Orders, 1913.

No. 712.

LUNATIC, ENGLAND.

REGULATION, DATED JUNE 25, 1913, MADE BY THE COMMISSIONERS IN
LUNACY UNDER SECTION 40 (6) OF THE LUNACY ACT, 1890, AS TO
INSTRUMENTS AND APPLIANCES FOR THE MECHANICAL RESTRAINT
OF LUNATICS.

Lunacy Act, 1890, Section 40.

"(1.) Mechanical means of bodily restraint shall not be applied to any lunatic unless the restraint is necessary for purposes of surgical or medical treatment, or to prevent the lunatic from injuring himself or others.

"(2.) In every case where such restraint is applied a medical certificate shall, as soon as it can be obtained, be signed, describing the mechanical means used, and stating the grounds upon which the certificate is founded.

"(3.) The certificate shall be signed, in the case of a lunatic in an institution for lunatics or workhouse, by the medical officer thereof, and in the case of a single patient, by his medical attendant.

“(4.) A full record of every case of restraint by mechanical means shall be kept from day to day ; and a copy of the records and certificates under this section shall be sent to the Commissioners at the end of every quarter.

“(5.) In the case of a workhouse, the record to be kept under this section shall be kept by the medical officer of the workhouse, and the copies of records and certificates to be sent shall be sent by the clerk to the guardians.

“(6.) In the application of this section ‘mechanical means’ shall be such instruments and appliances as the Commissioners may, by regulations to be made from time to time, determine.

“(7.) Any person who wilfully acts in contravention of this section shall be guilty of a misdemeanor.”

Regulation.

In pursuance of sub-section 6 of the above section of the Lunacy Act, 1890, the Commissioners in Lunacy, by this regulation under their common seal, do hereby determine that “mechanical means of bodily restraint” shall include all instruments and appliances whereby the free movements of the body or of any of the limbs of a lunatic are restrained or impeded, but that the following instruments and appliances only shall be made use of for such purpose :—

- I. A jacket or dress, made of strong linen or some other strong material
 - (a) laced or buttoned down the back having long outside sleeves fastened to the dress only at the shoulders, with closed ends to which tapes may be attached for tying behind the back when the arms have been folded across the chest ; or
 - (b) of some other pattern approved under the seal of the Commissioners ; a sample bearing the seal of the Commissioners being in this case kept at the institution or workhouse for inspection.
- II. Gloves without fingers, so fastened at the wrists that they cannot be removed by the wearer, and made of linen, leather (chamois or other), or some strong material, padded or otherwise.
- III. If the continuous bath be employed, the use of a cover to the open bath shall be deemed to be mechanical means of restraint, unless the aperture therein for the patient's head is large enough for his body to pass through.
- IV. The wet or dry pack. If, and when, either is used, the patient shall be swathed in sheets and blankets only, the outer sheet being, if necessary, sewn or pinned. No straps or ligatures of any kind shall be used, and the patient shall be released for necessary purposes at intervals not exceeding two hours.
- V. Sheets or towels, when tied or fastened to the sides of a bed or other object.
- VI. If, in the opinion of the medical officer or medical practitioner who gives the certificate required by the section, some other mechanical means of bodily restraint is necessary in a particular case where the circumstances are exceptional, such means may be used with the previous sanction of the Commissioners for such period as they may authorise.

Rules.

It is essential to the safe employment of any of these forms of restraint, except No. II., that the patient be visited frequently by a medical officer, that he be kept under continuous special supervision by an attendant, and that under no circumstances he be left unattended; and it is hereby so ordered.

The following are not to be considered as mechanical means of bodily restraint within the section:—

- (a) Splints, bandages, and other like appliances when used in accordance with recognised surgical practice for operations or the treatment of fractures or other local injuries, and not so as to interfere with the free movement of the body or limbs more than is necessarily incident to their use for such purpose.
- (b) Gloves, if so fastened as to be removable by the wearer.
- (c) Sheets or towels used only for the purpose of forcible feeding, and merely held by attendants, not tied or fastened.
- (d) Trays or rails fastened to the front of chairs used by idiot children, cripples or aged infirm adults to prevent their falling out and thereby injuring themselves; provided in the case of adults that it is within the patient's power to undo the fastening.

The Commissioners direct that at each visit of Commissioners or a Commissioner to an asylum, hospital, licensed house, or workhouse, or to a single patient, all instruments and mechanical appliances which may have been employed in the application of bodily restraint to a lunatic since the last preceding visit, together with any Order that may have been made under Article VI. of this Regulation sanctioning the use of exceptional means, be produced to the Visiting Commissioners or Commissioner by the medical superintendent, resident medical officer, resident licensee, or master of the workhouse, or the person having charge of the single patient.

It will be seen that the section requires that in every case where mechanical restraint is applied, a medical certificate describing the mechanical means used, and stating the grounds upon which the certificate is founded, be signed in asylums and hospitals by the medical superintendent, in licensed houses by the resident or visiting medical practitioner, in workhouses by the medical officer, and in the case of single patients, by the medical attendant; that a full record of every case of restraint be kept *from day to day*; and that a copy of such records and certificates be sent to the Commissioners in Lunacy at the end of every quarter.

In framing this Regulation, in which they have defined the “mechanical means” which may alone be used in the imposition of restraint, the Commissioners in Lunacy have merely discharged the duty cast upon them by the enactment quoted above; and they desire to guard themselves most strictly against the supposition that they have thereby given any greater countenance to the employment of this form of treatment than they have hitherto shown.

While recognising, as the enactment recognises, the possible occurrence of cases in which its employment may be necessary and consistent with humanity, they remain of opinion that the application of mechanical restraint should always be restricted within the narrowest possible limits, that it should not be long continued without intermission, and that it should

be dispensed with immediately that it has effected the purpose for which it was employed.

This Regulation shall come into operation on the first of October, 1913, on and from which day the Regulation of the 17th April, 1895, shall cease to have effect, and a copy shall be inserted at the beginning of every register of mechanical restraint.

Scaled by order of the Board,

(L.S.)

O. E. Dickinson,

Secretary.

66, Victoria Street, London, S.W.,
the 25th day of June, 1913.

Rules.

THE LUNACY ACT, 1890.

RULES MADE BY THE LORD CHANCELLOR UNDER SECTION 338, SUB-SECTION 4.

1. If on the presentation to a judge of county courts of a petition for a reception order, or the transmission to a judge of a notice that a lunatic desires to exercise the right of being taken before or being visited by him, such judge is unable to proceed upon such petition or notice without interfering with or delaying the exercise of his ordinary jurisdiction, it shall be lawful for him by writing under his hand, to certify such inability, together with the grounds upon which the certificate is founded, and thereupon to send the petition or notice, and the documents accompanying the same, together with the certificate, by registered post, to the justices' clerk of the petty sessional division or borough where the lunatic is, to be transmitted by the clerk to some other of the judicial authorities mentioned in section 9, sub-section 1, of the Lunacy Act, 1890; and such other judicial authority shall thereupon proceed in the matter as if the petition had been presented or the notice had been transmitted to him in the first instance.

As to petitions for reception orders, see sections 4—7 inclusive of the Lunacy Act, 1890, 53 Vict. c. 5, *ante*.

As to notice that a lunatic desires to be examined, see section 8 of the same Act, *ante*.

As to judicial authorities, see section 9 of the same Act, *ante*.

2. A judge of county courts signing a certificate under these rules shall also send a copy thereof to the Lord Chancellor.

3. Certificates under these rules shall be according to the form in the schedule.

THE SCHEDULE.

FORM OF CERTIFICATE.

Whereas a petition for a reception order under the Lunacy Act, 1890, in the matter of *A. B.*, a person alleged to be of unsound mind, has been presented to me: [*or*, Whereas a notice of the desire of *A. B.*, a person under care and treatment as a lunatic, to be taken, under the Lunacy Act, 1890, before or visited by a judge of county courts, magistrate, or justice of the peace has been transmitted to me:]

Now I, the undersigned, certify that I am unable to proceed upon the said petition [*or* the said notice] without interfering with or delaying the exercise of my ordinary jurisdiction as a judge of county courts. The grounds upon which this certificate is founded are as follows: (*here state them*).

(Signed) _____

Judge of the County Court
of _____

Dated

(Signed) HALSBURY, C.
March, 29, 1890.

RULES MADE BY THE SECRETARY OF STATE UNDER SECTION 338, SUB-SECTION 4, OF THE LUNACY ACT, 1890. Rules.
—

1. If on the presentation to a magistrate of a petition for a reception order, or the transmission to a magistrate of a notice that a lunatic desires to exercise the right of being taken before or being visited by him, such magistrate is unable to proceed upon such petition or notice without interfering with or delaying the exercise of his ordinary jurisdiction, it shall be lawful for him by writing under his hand, to certify such inability, together with the grounds upon which the certificate is founded, and thereupon to deliver or send the petition or notice, and the documents accompanying the same, together with such certificate, to the justices' clerk of the petty sessional division or borough where the lunatic is, to be by him transmitted to some other of the judicial authorities mentioned in section 9, sub-section 1, of the Lunacy Act, 1890; and such other judicial authority shall thereupon proceed in the matter as if such petition had been presented or such notice had been transmitted to him in the first instance.

See notes to Rule 1 of the Rules made by the Lord Chancellor, dated 29th March, 1890, *ante*.

2. A magistrate signing any such certificate shall also send a copy thereof to the Home Office.

3. Certificates under these rules shall be in the form in the schedule.

HENRY MATTHEWS,
Secretary of State.

Home Office, Whitehall,
31st March, 1890.

THE SCHEDULE.

FORM OF CERTIFICATE.

Whereas a petition for a reception order in the matter of *A. B.*, a person alleged to be of unsound mind, has been presented to me: [*or*, Whereas a notice of the desire of *A. B.*, a person under care and treatment as a lunatic, to be taken before or visited by a judge of county courts, magistrate, or justice of the peace has been transmitted to me:]

Now I, the undersigned, certify that I am unable to proceed upon the said petition [*or* the said notice] without interfering with or delaying the exercise of my ordinary jurisdiction (*sic*). The grounds upon which this certificate is founded are as follows: [*State them.*]

(Signed)

Dated

CIRCULAR LETTER OF THE COMMISSIONERS IN LUNACY, 16TH APRIL, 1890, TO MANAGERS OF INSTITUTIONS FOR LUNATICS. (a)

LUNACY ACT, 1890.

(53 VICT. CAP. 5.)

The alterations introduced into the Law of Lunacy by the Lunacy Acts Amendment Act, passed in the session of 1889, were so many and important that it appeared to the Commissioners in Lunacy to be desirable that the chief of these alterations should be brought directly to the notice of the superintendents and managers of asylums, hospitals, and licensed houses, and they determined, therefore, to issue a circular upon the subject.

The provisions of the above-mentioned Act, however, and all other subsisting enactments on the subject of lunacy, have now been brought together and consolidated into one Act, the Lunacy Act, 1890, which comes into operation on the 1st May next, and it is to this Act that reference will here be made. All persons concerned with the charge of lunatics are, however, advised to make themselves acquainted fully and textually with the provisions of the new Act, which are numerous and complicated, but most necessary to be studied.

The changes introduced may most conveniently be noticed under separate heads.

THE ADMISSION OF PATIENTS.

1. PRIVATE PATIENTS.

- Lunacy Act, 1890, s. 4. On and after May 1, 1890, a private patient cannot, as a general rule, be received (except by transfer) into an institution for lunatics without a "reception order" made by a "judicial authority."
- Section 11. The exceptions are: (1.) A case of urgency when a patient may be received on an "urgency order"; (2.) The case of a lunatic so found by inquisition, who may be received upon the order of the committee of the person, with an office copy of the order appointing such committee, or if no committee has been appointed, upon the order of a Master in Lunacy.
- Section 12. "Institution for lunatics" means an asylum, hospital, or licensed house.
- Section 9. "Judicial authority" means a county court judge, stipendiary or metropolitan police magistrate, or justice of the peace appointed in the manner prescribed by the Act to exercise the power of making reception orders for private patients.

(a) See 44th Rep., Appendix (N.).

Reception Orders.

53 Vict. c. 5.

The reception order is obtained upon petition presented, if possible, by the husband or wife or a relative of the patient, with two medical certificates, one of which shall, whenever practicable, be given by the usual medical attendant of the patient. The certificates must be on separate sheets of paper. Sections 4, 5.
Section 31.
Section 4 (2).

Forms of the petition, order, statement, medical certificates, and other necessary documents are given in the schedule to the Act, and should be strictly followed.

A reception order, appearing on the face of it to be in conformity with the Act, is sufficient authority for the admission of the patient without further evidence of the signature, or of the jurisdiction, of the person making the order. The person receiving the patient must, however, see that all the requirements respecting reception orders and certificates, as specified in sections 28 to 33, both inclusive, appear, on the face of the documents, to have been complied with. Section 35.

Urgency Orders.

An "urgency order" should, when possible, be made by the husband or wife or relative of the patient. If not, the connection of the person signing it with the patient must be stated. The form of it is given in the schedule to the Act (Form 4). It must be supported by *one* medical certificate, which may be signed before or after the order, and the certifying medical practitioner must have examined the patient not more than two clear days before his reception. An urgency order remains in force for * seven days from its date, or, if a petition for a reception order is pending, until the petition is finally disposed of (section 11 (6)). Section 11.
Section 29 (3)

Lunatic not under proper Care and Control.

The reception order for admission into an asylum of a lunatic who is "not a pauper, and is not wandering at large," but who "is not under proper care and control, or is cruelly treated or neglected," must in future be made by a justice who is a "judicial authority." Section 13. †

Right to be Examined by Judicial Authority.

A private patient who has not been seen by the judicial authority prior to his making the reception order will be entitled to be taken before, or visited by, a different judicial authority, unless the medical officer of the institution, within 24 hours after reception, signs, and sends to the Commissioners, a certificate that the exercise of such right would be prejudicial to the patient. Section 8.

If such certificate is not given, the patient is, within 24 hours after reception, to have notice in writing of the above right, and his desire in regard to it is to be ascertained. If he desires to exercise the right, the manager will procure him to sign a notice to that effect, and must forthwith

* Eight days in all.

† Patients under this section may be received into licensed houses, not licensed for the reception of paupers under this section.

- 53 Vict.c.5. send such notice by post in a prepaid registered letter to a "judicial authority," or to the clerk of the petty sessional division or borough where the patient is. The latter course will, no doubt, be usually adopted.

2. PAUPER PATIENTS.

- Section 19. The principal changes made with regard to the reception orders for pauper patients, to be termed in future "summary reception orders," are:—the requirement that the order shall contain a statement that the justice making it is satisfied that the patient is a pauper in receipt of relief, or is in such circumstances as to require relief for his proper care and maintenance; and that an order can no longer be made by an officiating clergyman and relieving officer or overseer.
- Section 18.

Amendment of Reception Orders and Medical Certificates.

- Section 34 (1). A defective order or certificate may within 14 days after the reception of the patient be amended by the person who signed it. But the amendment must be sanctioned by the Commissioners, or one of them, and in the case of a private patient must have the consent of the judicial authority who made the order.
- Section 34 (2). The Commissioners may require a certificate to be amended, and if not, within 14 days, amended to their satisfaction may discharge the patient.

Duration of Reception Orders.

- Section 38 (1). As well in the case of pauper as of private patients, reception orders are made terminable by the Act. "Reception order" means an order or authority, made or given before or after the commencement of the Act, for the reception of a lunatic (section 341).

Every reception order dated after, or within three months before, the commencement of the Act, *i.e.*, May 1, 1890, will expire at the end of a year from its date; and every order dated three months or more before May 1, 1890, will expire on April 30, 1891, unless, in each case, it is continued by a special report and certificate by the manager of the institution in which the patient is detained. Orders dated on February 1, 1890, will fall into the latter category.

The special report is to be on the mental and bodily condition of the patient, and the certificate to the effect that he is still of unsound mind, and a proper person to be detained under care and treatment. They are to be sent to the Commissioners not more than a month, or less than (a) seven days, before the date on which the order would expire.

The report and certificate will (unless objected to by the Commissioners) keep the reception order in force for another year; and after such year it may, by a similar process, be thereafter continued in force for two years, then for three years, and then for successive periods of five years, so long as the patient is detained.

- Section 38 (8). The special reports and certificates may include and refer to more than one patient. The Commissioners, consulting the convenience of managers, have determined that, with respect to patients whose reception orders were

(a) Exclusive of date of writing and posting certificate—8 days in all.

dated on or prior to February 1, 1890, all those detained in each institution shall be included in one list or schedule, a form for which is given in the Appendix hereto; (a) but that as regards patients whose reception orders are dated subsequently to February 1, 1890, a separate document containing the report and the certificate must be signed and sent for each patient. A form for this is also given in the Appendix. (a)

If, in the opinion of the Commissioners, the special report does not justify the certificate, and they are not by further inquiry satisfied, they may discharge the patient. (6).

The detention of a patient after the order for his reception has expired is made a misdemeanor. (7).

The foregoing provisions of the Act on this subject do not apply to lunatics so found by inquisition [nor to criminal lunatics (section 340 (1), (10). ante].

Care and Treatment—Report at end of Month.

In addition to the medical statement now sent to the Commissioners after the admission of a patient, a report of his mental and bodily condition must, in the case of a private patient, be sent to them at the expiration of one [calendar] month after his reception. The report must be made and signed by the medical officer of the institution, and be in the Form [13] in the schedule to the Rules made by the Commissioners. The action to be taken upon the report is fully detailed in section 39. (b)

Mechanical Restraint (c).

Mechanical means of bodily restraint of a lunatic must in future be used "for purposes of surgical or medical treatment, or to prevent the lunatic from injuring himself or others."

In every case where such restraint is applied a medical certificate shall, as soon as it can be obtained, be signed by the medical officer, describing the means used, and stating the grounds upon which the certificate is founded.

A record of all cases of the use of restraint is to be kept, and a copy of the records and certificates sent to the Commissioners at the end of every quarter. The records are to be kept in the form of the "Register of Mechanical Restraint," given as (d) Form 4 in the schedule to the Rules.

Accompanying this circular is a copy of the "Regulations" made by the Commissioners as to "instruments and appliances" of restraint.

Acting in contravention of section 40 is a misdemeanor.

(a) This paragraph and the forms therein referred to are now superseded by Rule 26, of the Rules of the Commissioners in Lunacy, 26th June, 1895, ante, p. 535, and the Forms 19 and 20 in the schedule thereto, ante, pp. 550, 551. The Appendix to this circular is, therefore, omitted.

(b) This section does not apply to patients received under a transfer order, nor to Chancery lunatics. See section 8 of the Lunacy Act, 1891, p. 475.

(c) As to recent regulations on this subject, see ante, "Regulations."

(d) Now Form 5, Rules 26th June, 1895.

53 Vict. c. 5.

Correspondence.

Section 41.

Letters written by patients and addressed to the public functionaries and other persons mentioned in section 41, must be forwarded unopened, by the manager of the institution, who may also at his discretion forward to its address any other letter written by a private patient.

Letters not forwarded need not in future be laid before visiting Commissioners or visitors.

Examination of Patient.

Section 49.

The Commissioners may authorise the examination of a patient in an institution for lunatics by two medical practitioners, and, as a result of such examination, may order the discharge of the patient. The exercise of the powers conferred by this section is, however, altogether in the discretion of the Commissioners.

Absence on Trial or for Health and Transfer.

Section 55.

The consent of *one* Commissioner instead of *two*, as heretofore, will in future be sufficient for authorising the absence of a patient from a hospital or licensed house on trial or for health. Also for the transfer of a patient from one institution to another institution, or to single care.

Section 55
(7).

The medical officer of a hospital or licensed house may, of his own authority, permit a patient to be absent for not more than 48 hours.

Rule 21.

The applications to the Commissioners for leave of absence must be accompanied by a recommendation from the medical officer; and the application for consent to a transfer must be accompanied by a report by the medical officer as to the mental and bodily condition of the patient, and his fitness for transfer.

Boarding-out of Pauper Patients.

Section 57.

A pauper patient in an asylum may be delivered into the custody of a relative or friend upon certain conditions specified in section 57; and the authority liable for his maintenance is to pay to the person taking charge such an allowance, not exceeding the cost of the patient in the asylum, as the authority, on the recommendation of the committee of the asylum, may decide. For every lunatic so boarded out the guardians will continue entitled to the 4s. a week subvention, and the patient may by order of two members of the committee be at any time brought back to the asylum.

Section 63.

Section 202.

While boarded out he is to be visited quarterly by the medical officer of the union or district in which he resides, who, after each visit, must report to the committee of the asylum.

A patient so boarded-out must necessarily be continued on the register of patients of the asylum, and not treated as discharged.

Discharge.

Section 75.

Two Commissioners, one legal, the other medical, will in future be empowered to discharge, after *one* visit, a patient detained in a hospital or licensed house. They must forthwith serve an order of discharge, if made, upon the manager of the institution in which the patient is detained.

Section 83
(2).

The notice of the recovery of a patient to be given by the manager of a

hospital or licensed house must in future state that unless the patient is removed within seven days he will be discharged; and, if not so removed, he must be discharged accordingly. 53 Vict. c. 5.

Escape.

Sections 86 to 89 contain provisions for the re-capture of patients escaping from one part of the United Kingdom to another part. Sections 86—89.

Visiting Committees of Asylums.

Section 169 re-enacts the provisions of the Local Government Act, 1888, Section 169, which effected the changes in the constitution of visiting committees of asylums which became necessary by the transfer of the powers of justices to the county councils, the corresponding sections of the Local Government Act being repealed.

Restrictions on Licences.

No new licence can be granted to any person for a house for the reception of lunatics, except in substitution for another house relinquished. The number of patients allowed by the licence for such substituted house cannot be increased, nor can any increase be allowed for a house already licensed. Section 207.

Joint proprietors may be allowed to separate, and each to have a licensed house, the aggregate number of patients not exceeding the number allowed in the house carried on jointly.

Licences of existing establishments may be renewed.

Boarders in Licensed Houses.

The manager of a licensed house may, with such previous consent as is mentioned in section 229, receive and lodge as a boarder for a specified time, "any person who is desirous of voluntarily submitting to treatment," or any relative or friend of a patient. (a)

Patients and boarders together are not to exceed the number for which the house is licensed. Boarders are to be produced to Commissioners and visitors at their visits. (b)

A boarder may leave on 24 hours' notice; and his detention after the 24 hours have expired will subject the manager to a penalty of 10*l.* for every day or part of a day of such detention.

A register of voluntary boarders must be kept in every hospital and licensed house, in the Form [6] in the schedule to the Rules, and produced to visiting Commissioners and visitors. Rules 1 and 6.

(a) Notice of reception of a boarder into a house licensed by justices must be given to the Commissioners within 24 hours under a penalty of five pounds per day. See section 20 of the Lunacy Act, 1891, *ante*, p. 484. See also Rule 8 (6) of the Rules of the Commissioners in Lunacy, 26th June, 1895, *ante*, p. 528.

(b) The Commissioners have power to order the removal of a boarder or that he should be placed under certificates. See section 20 of the Lunacy Act, 1891, *ante*, p. 484.

53 Vict. c. 5.

*Hospitals.*Sections 230
—237.

The Act contains new provisions respecting hospitals, but they are applicable chiefly to hospitals to be established, and not to those already existing. Some, however, apply to the latter, and are important.

The accounts of hospitals must in future be audited and printed, and the Commissioners may, if they think fit, prescribe the form in which the accounts must be kept.

Sections 235
and 236.

Superannuation allowances may be granted to officers and servants of hospitals, and certain persons are disqualified from serving on the managing committee. Section 237 enables the Commissioners to take steps to enforce the proper carrying out of the regulations of a hospital.

Section 269
(2), (8).

No new contract for the reception of pauper patients can be entered into with a hospital, but any existing contract may be renewed. (a)

Asylums.

Section 255.

Committees of asylums may, with the consent of the local authorities for which the asylums are provided, and with the approval of a Secretary of State, establish departments for private patients, by means of additions to the asylum, either as detached buildings or otherwise; and private patients may be received upon such terms as to payment and accommodation as the committee think fit.

Section 271.

Profit resulting from the reception of private patients may be applied to a building and repair fund, and any surplus is to be carried to the credit of the county or borough fund.

Section 271.

Section 241.

A local authority may provide asylum accommodation for pauper and private patients together or in separate asylums, and also separate asylums for idiots or patients suffering from any particular class of mental disorder.

Section 263.

Lands and buildings used for the purposes of an asylum will henceforth be rateable as other lands and buildings in the same parish, township, or district.

Section 265.

Lands or buildings becoming unsuitable, or not required for the purposes of an asylum, may, with the consent of a Secretary of State, be appropriated by the local authority for any purposes for which the local authority is empowered to acquire land.

Section 269
(4).

Where a contract for the reception of pauper patients has, whether before or after the passing of the Act, been made on behalf of a borough with the committee of an asylum, and the contract is determinable by the parties, or either of them, it cannot be determined without the consent of a Secretary of State.

Section 282.

(b) In computing the pension of an officer of an asylum, if he has served in more than one asylum belonging to the same local authority, the whole of his service in the several asylums belonging to that authority shall be reckoned as if all the asylums had been one asylum.

Section 240.

The council of every administrative county and county borough respectively constituted under the Local Government Act, 1888, and the council of each of the boroughs mentioned in the Fourth Schedule to the Lunacy Act, 1890, is a "local authority" for the purposes of that Act.

(a) See section 17 of the Lunacy Act, 1891, *ante*, p. 478.

(b) See now Asylums Officers Superannuation Act, 1909, *post*, Appendix I.

Rules.

53 Vict. c. 5.

Power is given by section 338 to the Commissioners, with the approval of the Lord Chancellor, to make rules prescribing the books to be kept in institutions for lunatics, and the entries to be made therein, and as to various other matters. Section 338.

The Commissioners have, under this power, issued rules, a copy of which accompanies this Circular. (a) They include many subjects which were before dealt with by statute, and come into operation on the 1st day of May next. Having the force of an Act of Parliament, they must be carefully observed, and the forms given in the schedule to them must be strictly followed.

Size of Paper to be used for Documents.

It will greatly facilitate the work of the Commissioners' Office, if paper of an uniform size be used for all returns and other documents sent to it.

The most convenient size is ordinary foolscap, and it is requested that paper of this size may be used for all copies of petitions, reception orders and certificates, returns of all kinds, and other documents forwarded to the Commissioners, who further request that all formal documents may, as far as possible, have printed at the head of the first page the name of the institution to which they relate.

By order of the Commissioners in Lunacy,

G. HAROLD URMSON, *Secretary.*

19, Whitehall Place, London, S.W.,
16th April, 1890.

(a) These were the Rules of the 25th March, 1890, now annulled and superseded by the Rules of the 26th June, 1895, &c., *ante*, p. 526 *seq.*

53 Vict. c. 5.
54 Vict. c. 65.

THE LUNACY ACTS, 1890 AND 1891.

CIRCULAR LETTER OF THE COMMISSIONERS IN LUNACY, APRIL 19TH, 1893.

PROVISIONS OF THE LAW AS TO SINGLE PATIENTS.

The reception and detention for payment of one "lunatic" (which term includes an idiot and person of unsound mind) in a private house *not licensed* for the reception of lunatics, is permitted by law on the following conditions:—

- Lunacy Act, 1890, ss. 4, 5. 1. That a "reception order" has been obtained. This is made by a "judicial authority" upon a petition, signed and presented (when possible) by the husband or wife of a relative of the patient; and who must not be a minor, and must have seen the patient within fourteen days before the presentation of the petition, which must be accompanied by two certificates of insanity, on separate sheets of paper, each signed by a registered medical practitioner. These certifying medical men must be absolutely independent of and unconnected with each other, and with the person taking charge of the patient, and must have personally examined the patient within seven clear days before the date of the presentation of the petition. One of them should, if possible, be the usual medical attendant of the patient.
- Ib.*, ss. 30—32.
- Ib.*, s. 35 (2). 2. The original petition, reception order, and certificates must be delivered, with the patient, to the person receiving the latter. They must be so kept by such person as to be accessible to a Commissioner in Lunacy visiting the patient. The patient must be received before the expiration of seven clear days from the date of the order, or the order will be void.
- Ib.*, s. 36.

N.B.—Where a patient already detained under a proper reception order is, with the consent of a Commissioner, transferred to new care, a *fresh* order and *fresh* certificates are *not* required by the person taking charge on such transfer.

- (a) 3. The transmission to the Commissioners in Lunacy, at their office, 19, Whitehall Place, London, S.W., within one clear day after reception, of notice of the reception of the patient, together with copies of the petition, reception order, and certificates, or, in the case of a patient transferred from other care, copies of the transfer order and the Commissioners' consent thereto.
- Lunacy Act, 1890, s. 58.
- Ib.*, s. 8. If the reception order has been made without the patient having been

(a) Now the Board of Control, 66, Victoria Street, Westminster.

seen by the authority who made it, then, unless the medical attendant, ^{53 Vict. c. 5.} within twenty-four hours after reception, signs and sends to the Com- ^{54 Vict. c. 65.} missioners a certificate in Form 1 (in the Appendix hereto) that the exercise of the right would be prejudicial to the patient, the latter is to have notice, *in writing*, in the Form 2 in the Appendix, of his right to be taken before or visited by a judicial authority other than the one who signed the order; and if he signifies in writing (in Form 3 of the Appendix) his desire to exercise this right, this document is to be sent to a judicial authority, or to the clerk of the petty sessional division or borough where the lunatic is.

NOTE.—“Judicial authority” means a county court judge, a stipendiary or metropolitan police magistrate, and a justice of the peace specially appointed by quarter sessions to make reception orders.

4. The visitation of the patient at short stated intervals by a registered medical practitioner, *who did not sign either of the certificates*, and who ^{Lunacy Act, 1890, s. 44 (1).} derives no profit, and who has not a partner, father, son, or brother who derives profit from the charge of the patient. He is called “the medical attendant.” A medical attendant must be appointed, although the person having charge of the patient is himself a medical man. He must be appointed (by the person taking charge) immediately on the reception of the patient.

5. The visitation of the patient at any reasonable time or times by one ^{Lunacy Act, 1890, ss. 198} or more of the Commissioners. ^{—200.}

EXCEPTIONS.

These conditions do not apply to the case of a lunatic so found by inquisition, nor where no payment is made for the charge of the patient.

In urgent cases a patient may be received upon an “urgency order,” ^{*Ib.*, s. 11.} which must be signed by a person entitled to present a petition for an ordinary reception order, and must be accompanied by *one* medical certificate, but this course will not often be followed, and is not desirable in the case of a single patient. The urgency order is only valid for seven days, or until the final disposal of a petition, if one is pending.

OF THE RECEPTION ORDER AND CERTIFICATES, &c.

The forms are prescribed by Act of Parliament, and must be strictly ^{Lunacy Act, 1890, Second Schedule.} adhered to.

On receipt of an application containing the names and addresses of the intended single patient, of the person who is to take charge, and of the person who is to sign the petition for the reception order, the Commissioners will give a set of blank forms, if required.

OF MEDICAL VISITATION.

1. After the second and before the end of the seventh day after the day of reception [except on a transfer order (Lunacy Act, 1891, s. 8, *ante*)], the medical attendant must send to the Commissioners, on a prescribed form,

53 Vict. c. 5. a "statement" of the mental and bodily condition of the patient. He must
 54 Vict. c. 65. also, at the expiration of one (calendar) month after reception, send to them
 a report as to the mental and bodily condition of the patient in the Form
 4 in the Appendix.

Lunacy Act,
 1890, s. 44. 2. The patient must be visited by the medical attendant at least once
 in every two weeks, unless less frequent visits are permitted by the Com-
 missioners.

Form 9 in
 Appendix. 3. The medical attendant must, as soon as possible after the reception
 of the patient, enter on blank pages at the beginning of a book called
 "The Medical Journal," to be kept at the house in which the patient is
 received, and always accessible to a Commissioner visiting the patient,
 and in the Form 9 in Appendix, a sketch of the previous history of the
 case, and full particulars of the mental and bodily condition of the patient
 on reception. He must also, at each visit, enter in that book the date of
 the visit, and the particulars of the condition and circumstances of the
 patient as required by the headings of the columns of the book, and must
 sign every such entry.

N.B.—When the patient is in the charge of a medical man, and the
 visits of the medical attendant are permitted to be less frequent
 than one in two weeks, such medical man must himself, once at least
 in every two weeks, make and sign an entry of the like character in
 the Medical Journal.

4. The medical attendant of the patient, or if the patient is in the charge
 of a medical man, such medical man must on the 10th January or within
 seven days from that date, in every year, report in writing to the Com-
 missioners the state of health, bodily and mental, of the patient, and such
 other circumstances as he may deem necessary to communicate. Each
 annual report should give the required particulars fully, although no change
 may have occurred since the last report.

Lunacy Act,
 1890, ss. 40. 5. A book, called "The Register of Mechanical Restraint," must be kept
 in the Form 8 in the Appendix, and in it must be entered the date and other
 particulars, and certificate, indicated in such form; and the entry must
 be made, and the certificate signed by the medical attendant. The means
 of mechanical restraint are pointed out in the regulation on the subject
 issued by the Commissioners, a copy of which is sent to every person in
 charge of a single patient.

The person having charge of the patient must, at the end of each quarter,
 send to the Commissioners copies of all entries (if any) made during that
 quarter in this register. [If no such restraint has been used during the
 quarter, a return to that effect must be made.]

Any instances of treatment of the patient by seclusion must be recorded
 in the Medical Journal.

Seclusion is defined by the Board as "compulsory isolation in the day-
 time," as by locking up the patient in a room alone.

Escape,
 Lunacy Act,
 1890, ss. 85,
 86, 89. In the event of the escape of a single patient, the person to whom the
 reception order is addressed has authority, by himself, his assistants, or
 servants, to retake him in England or Wales at any time within fourteen
 days after such escape, and to detain him as before, without fresh order
 or certificates.

If the patient escapes to Scotland or Ireland he can only be retaken by 53 Vict. c. 5. the process pointed out by sections 86—89 of the Lunacy Act, 1890, as to 54 Vict. c. 65. which immediate application should be made to the Commissioners.

When the person in charge of a single patient proposes to change his residence, and to remove the patient with him, seven clear days' notice residence. of the proposed change, with the exact address and designation of the new Lunacy Act, residence, must be sent to the Commissioners and to the person who signed 1890, s. 56. the reception order.

If it should be desired to take or send the patient away temporarily for Removals for the benefit of his health (as, for instance, to the seaside,) or to allow a patient health. to be absent upon trial, the consent in writing of a Commissioner must first *Ib.*, s. 56. be obtained upon application to the office; the written consent of the Lunacy Act, 1891, s. 10. person who signed the petition for the reception order must accompany the application, as well as a statement by the medical attendant showing the fitness of the patient for such removal or trial. (a)

If it is proposed to remove the patient permanently to the care or charge Transfers, of another person, the consent to an order of transfer should previously Lunacy Act, be obtained from the Commissioners, otherwise a fresh reception order will 1890, s. 58. be necessary. Upon such removal true copies of the documents authorising the original reception of the patient must be given by the person relinquishing the charge to the person receiving the patient.

CAUTION.

If removed temporarily without the written consent of a Commissioner previously obtained, the patient will become discharged by operation of law, and for his continued detention a fresh reception order will be absolutely necessary. This will also be the case if the patient is removed temporarily, after consent obtained, to any place other than that named in such consent; and, further, if he be not brought back before the expiration of the period for which the consent has been granted.

DURATION OF ORDER OF RECEPTION.

The reception order expires at the end of one year from its date, unless a Lunacy Act, special report of the medical attendant as to the mental and bodily condition 1890, s. 38. of the patient, with a certificate signed by him, that the patient is still of Lunacy Act, unsound mind, and a proper person to be detained under care and treatment, 1891, s. 7. is sent to the Commissioners not more than one month, or less than seven days before the end of such year. The special report and certificate if not objected to by the Commissioners, will keep the reception order in force for another year, (b) after which it may, by a similar process, be kept in

(a) The consent to leave of absence for the benefit of a patient's health can only be given for some specified place or places, but on fresh application the place may be altered or the time extended.

(b) Similar reports and certificates sent within like limits before the end of like periods, dating from the 1st May, 1890, are necessary to keep in force old orders dated before 1st February, 1890.

53 Vict. c. 5. force for *two* years, and after such two years, for *three* years, and after such
 54 Vict. c. 65. period of three years, for successive periods of *five* years, so long as the
 patient is detained. These special reports and certificates must be in the
 Form 5 in the Appendix.

MISCELLANEOUS PROVISIONS.

Lunacy Act, 1890, s. 59. Upon the death of a person having charge of a single patient, the charge of the patient may, by order of the Commissioners, be transferred to another person without fresh reception order. The Commissioners should be at once communicated with in such a case.

Lunacy Act, 1890, s. 59. The Commissioners may at any time direct the removal of a single patient from the person in whose charge he is to the charge of another person, or to an institution for lunatics (*ibid.*).

RECOVERY OF PATIENT.

Ib., s. 83. If the single patient recovers, the person having charge must forthwith send notice thereof to the person who placed the patient in charge, or by whom the last payment on account of the patient was made, and state that if not removed within seven days the patient will be (as he must in fact be) discharged.

DEATH OF PATIENT.

Notice of the death of the patient, together with a statement relating thereto, in the Form 7 in the Appendix, (*a*) must be sent within forty-eight hours of the death, to the coroner of the district by the person in charge of the patient. A like notice and statement must also within the like time be sent by such person (*b*)—

- (*a.*) To the Commissioners.
- (*b.*) To the relation, or one of the relations, named in the statement accompanying the reception order, or, if none be known, to the person named for the purpose in such statement.
- (*c.*) To the registrar of deaths for the district.
- (*d.*) To the person on whose petition the reception order was made or who made the last payment for the patient.

The statement above referred to must be prepared and signed by the medical person who attended the patient in the illness which terminated in death, and must set forth—

- (*a.*) The name, sex, and age of the patient.
- (*b.*) Whether married, single, or widowed.
- (*c.*) Profession or occupation.
- (*d.*) Place of abode immediately before being placed under care, if known.
- (*e.*) Apparent cause of death, and whether or not ascertained by post-mortem examination.

(*a*) This form is now superseded. See Rules of the Commissioners in Lunacy, 4th December, 1912, *ante*, p. 562.

(*b*) This paragraph has been altered in accordance with the Rules of the Commissioners in Lunacy, 26th June, 1895 Rule 27, *ante*.

- (f.) The time and any unusual circumstance attending the death, also a description of any injuries known to exist at time of death or found subsequently on body of deceased. 53 Vict. c. 5.
54 Vict. c. 65.
- (g.) The duration of the disease of which the patient died.
- (h.) The name or names of any person or persons present at the death.
- (i.) Whether or not mechanical restraint was applied to deceased within seven days previously to death, with character and duration if so applied. Rule 27.

This statement must be copied into the Medical Journal by the person having charge of the patient.

Immediate notice must be forwarded to the office of the Commissioners in case of the discharge, removal, escape, and recapture of a patient.

LETTERS.

Every letter written by a single patient, and addressed to the Lord Chancellor, any Judge in Lunacy, a Secretary of State, or to the Commissioners or a Commissioner, or to the person on whose petition the reception order was made, must be forwarded unopened. Any other letter written by the patient may be forwarded or not to its address in the discretion of the person having charge of the patient. 1890, s. 41.

PENALTIES.

The following acts or defaults are declared by the Lunacy Acts to be misdemeanors punishable by fine, imprisonment, or both :— Lunacy Act,
1890, ss. 315
et seq.

1. The reception into an unlicensed house, or the taking the care or charge of any person therein as a lunatic, without having the order and certificates and other documents prescribed by law (except in the case of a person not paid for the charge, or a committee appointed by the Lord Chancellor).
 2. The neglect to transmit copies of the petition, reception order, and certificates, and the statement of condition, to the Commissioners in Lunacy. Ib., s. 320.
 3. Failure in causing the patient to be visited by a medical man, as directed by the Commissioners. Ib., s. 44 (4).
 4. The making of an untrue entry in the Medical Journal by the medical man keeping the same. Ib., s. 318.
 5. Neglect to send notice of removal, discharge, or death to the Commissioners, or statement of cause of death, &c., to the coroner. Ib., s. 319.
 6. Neglect or ill-treatment of the patient. Ib., s. 322.
 7. Carnal abuse of female patient, or attempt at such. Ib., s. 324.
 8. Neglecting to record the use of mechanical restraint. Ib., s. 40 (7).
- The neglect to send notice to the Commissioners of escape and retaking, and the failure to comply with regulations as to entries in Medical Visitation Book is punishable by a penalty of 10*l.* a day during the continuance of such neglect or failure. Ib., s. 320.

Two or more lunatics cannot be kept in an unlicensed house. (a)

(a) Without the previous consent of the Board of Control.

THE LUNACY ACTS, 1890 AND 1891.

53 Vict. c. 5. Such of the foregoing provisions as relate to matters other than the
 54 Vict. c. 65. authority for receiving a single patient, and the action following immediately on reception, are applicable as well to the cases of single patients received before May 1st, 1890, when the Lunacy Act, 1890, came into operation, as to patients received after that date.

By order of the Commissioners in Lunacy,

G. HAROLD URMSON, *Secretary*.

April 19th, 1893.

APPENDIX.

1. *Certificate as to Personal Interview after Reception.*

I certify that it would be prejudicial to _____ to be taken before or visited by a justice, a judge of county courts, or magistrate.

(Signed)

Medical Attendant of the said _____ .

Dated this _____ day of _____ .

2. *Notice of Right to Personal Interview.*

Take notice that you have the right, if you desire it, to be taken before or visited by a justice, judge of county courts, or magistrate. If you desire to exercise such right, you must give me notice thereof by signing the enclosed form on or before the _____ day of _____ .

(Signed)

Dated this _____ day of _____ .

3. *Notice of Desire to have a Personal Interview. (a)*

_____ day of _____ 18 ____ .

To _____

I desire to be taken before or visited by a justice, judge, or magistrate, having jurisdiction in the district within which I am detained.

(Signed)

4. *Report at end of a Month after Reception.*

I have this day seen and examined _____ received in the house of _____
 as a single private patient, on the _____ day of _____ 189 ,
 and report that with respect to mental condition he is _____ and that
 with respect to bodily condition he is _____ .

Dated this _____ day of _____ 189 .

(Signed)

Medical Attendant of the said _____

(b) To the Commissioners in Lunacy.

(a) This form is superseded, see form for *Notice of Desire* to have a personal interview, *ante*, under Commissioners' Rules, p. 460.

(b) Now the Board of Control.

[or she.]

5. *Special Report and Certificate of continued Insanity.*

53 Vict. c.5.

Name of Patient _____

Date of Reception Order _____

I have this day seen and examined the above-named, who was received as a single private patient in the house of _____ at _____, under a Reception Order dated as above, and report that with respect to mental condition he [or she.] is _____ and that with respect to bodily condition he [or she] is _____.

And I hereby certify that he [or she] is still of unsound mind, and a proper person to be detained under care and treatment.

Dated this _____ day of _____ 189 .

(Signed)

Medical Attendant of the said Patient

(a) To the Commissioners in Lunacy.

6. *Notice of Discharge.*

I hereby give you notice that _____ a single private patient, received into this house on the _____ day of _____, 18 _____, was discharged therefrom recovered [or relieved, or not improved] on the _____ day of _____, 189 _____, by authority of _____.

Dated this _____ day of _____, 189 .

(Signed) _____,

The person having charge of the said _____.

(Address) _____.

(a) To the Commissioners in Lunacy.

7. *Notice of Death.*(This form is now superseded, see form *Notice of Death*, ante, p. 562.)8. *Register of Mechanical Restraint.*

REGISTER OF MECHANICAL RESTRAINT applied to a single private patient, residing with _____.

Date.	Means of Restraint employed.	Duration in Hours.	Certificate of Medical Attendant, stating grounds upon which the Restraint was employed.

(a) Now the Board of Control.

Date of Visit.	Mental Condition ; what Evidence of Insanity ? Any and what Change since last Visit.	Bodily Health and Condition.	Seclusion (if any) since last Visit. When, and how long, and for what Reasons.	Visits of Friends ; Date of Visit ; Name of Friend.	State of House and Furniture ; Bed and Bedding ; Supply and Condition of Wearing Apparel.	Dietary, if proper ? If not, state why not.	Employment, Exercise, and Amusements.

CIRCULAR LETTER OF THE LOCAL GOVERNMENT
BOARD, 23RD APRIL, 1890, TO BOARDS OF
GUARDIANS.(a)

THE LUNACY ACT, 1890.

(53 VICT. CAP. 5.)

Local Government Board, Whitehall, S.W.,
23rd April, 1890.

SIR,

I am directed by the Local Government Board to draw the attention of the Guardians to the Lunacy Act, 1890, which received the Royal Assent on the 29th ultimo, and which comes into operation on the 1st May next.

The Act consolidates the law respecting lunatics, and repeals most of the previous enactments on the subject. Twenty-seven statutes are thus wholly or partially repealed and re-enacted ; and on referring to the Fifth Schedule to the Act, it will be seen that the repeal practically extends to all the enactments relating to pauper lunatics, and to the powers and duties of boards of guardians and their officers in relation to them. The substituted provisions are contained in various parts of the new Act ; but attention may be especially directed to sections 13 to 22, which deal with summary reception orders, to sections 24 to 26, which relate to lunatics in workhouses, to sections 55 to 82, which provide for the absence from asylums of lunatics on trial or for health, the boarding-out of lunatics, and

(a) See 44th Rep., p. 374, Appendix (P.), and 20th Ann. Rep. Local Government Board, Appendix (A.), p. 33.

their removal and discharge, and to Part X. of the Act, which has reference 53 Vict. c. 5. to the expenses of pauper lunatics.

The measure embodies the provisions of an Act passed last year called the Lunacy Acts Amendment Act, 1889 (52 & 53 Vict. c. 41), by which important alterations were made in the law relating to pauper lunatics. These alterations have not yet taken effect, as the Act was not for the most part to come into operation until the 1st May next. As it has now been superseded by the Act of the present session, the provisions of the latter Act, which correspond with those of the Act of 1889, must, for practical purposes, be regarded as new; and the Board think it desirable to refer to them in detail, so far as they affect those lunatics with whom boards of guardians and their officers are concerned. Subject to this, the new Act does not substantially alter the law.

Lunatics not under proper care and control or cruelly treated or neglected.

By section 68 of the Lunatic Asylums Act, 1853, it was enacted that every constable, relieving officer, and overseer of any parish, having knowledge that any person in such parish, not a pauper, and not wandering at large, was deemed to be a lunatic, and was not under proper care and control, or was cruelly treated or neglected by any relative or other person having the care or charge of him, should, within three days after obtaining such knowledge, give information thereof upon oath to a justice.

The justice was thereupon required either himself to visit the alleged lunatic and to make inquiry into the matter, or to direct and authorise some medical man to do so, and to report to the justice his opinion thereon. If it was thus made to appear to the justice that the allegation in the information was correct, it was lawful for him to require any constable of the parish or place, or any relieving officer or overseer where the person was alleged to be, to bring such person before any two justices of the county or borough, who, having called a medical man to their assistance, could then deal with the case.

The whole of the Act of 1853 is now repealed; and the provisions which take the place of those above referred to will be found in section 13 of the new Act. Under that section it is necessary that the information should be given to a justice who is a judicial authority under the Act.

Any such justice, to whom the information on oath has been given, may himself visit the alleged lunatic, and must, whether making such visit or not, direct and authorise any two medical practitioners, whom he thinks fit, to visit and examine the alleged lunatic, and to certify their opinion as to his mental state. The justice is to proceed in the same manner as far as possible, and to have, as to the alleged lunatic, the same powers as if a petition for a reception order had been presented by the person by whom the information with regard to the alleged lunatic has been sworn. (Section 13 (2).) It is unnecessary to describe this procedure in detail. It will be found set forth in sections 6 and 7 of the Act.

The order or authority made or given for the reception of a lunatic, whether a pauper or not, in an institution for lunatics (*i.e.*, an asylum, hospital, or licensed house) is, in the new Act, termed a "reception order." (Section 341, *ante*.)

53 Vict. c. 5. In order that a justice may be a judicial authority within the meaning of the Act, it is necessary that he should have been specially appointed by the justices of the county or quarter sessions borough, or by the Lord Chancellor, to exercise within the county or borough the powers conferred by the Act upon the judicial authority. (Section 10, *ante*.)

It is the duty of the clerk of the peace of the county or borough to publish the names of the justices so appointed in each petty sessional division of the county and otherwise for the information of all persons concerned.

It is desirable that the guardians should obtain from the clerk of the peace of each of the counties or quarter sessions boroughs in which the union is situate, lists of the justices who have been appointed as judicial authorities. If in any borough, not having a separate quarter sessions, which is wholly or partly included in the union, justices have been appointed as judicial authorities, lists of such justices should be obtained from the clerk to the justices.

Orders for reception of pauper lunatics in institutions for lunatics.

The Act of 1890 does not alter the law generally as regards the steps to be taken to remove a pauper lunatic to an institution for lunatics. But after the commencement of that Act no pauper can be received as a lunatic into any asylum, hospital, or licensed house, under an order under the hands of an officiating clergyman and overseer or relieving officer. (*a*) It may, however, be pointed out that where notice is given to, or an information on oath is laid before, a justice that a pauper resident within the limits of his jurisdiction is deemed to be a lunatic, and a proper person to be sent to an asylum, or that a person, whether a pauper or not, wandering at large within such limits is deemed to be a lunatic, the justice may examine him at his own house or elsewhere, and may proceed in all respects as if the alleged lunatic had been brought before him. (Section 17, *ante*.)

But a justice cannot now in any case act upon his own knowledge only for the purpose of making a reception order. He cannot proceed except upon the prescribed notice, or where an information has been laid.

A justice is forbidden, after the 1st of May next, to sign an order for the reception of any person as a pauper lunatic into an institution for lunatics, or workhouse, unless he is satisfied that the alleged pauper is either in receipt of relief, or in such circumstances as to require relief for his proper care. If it appears by the order that the justice is so satisfied, the lunatic is to be deemed to be a pauper chargeable to the union, county or borough properly liable for his relief. A person who is visited by a medical officer of the union at the expense of the union is, for the purposes of this enactment, to be deemed to be in receipt of relief. (Section 18, *ante*.)

Requirements of reception orders and medical certificates.

Some restrictions have been placed on the making of reception orders and the granting of medical certificates. Thus section 29 of the recent

(*a*) But now summary reception orders may in some cases be made by the chairman of the board of guardians. See section 25 of the Lunacy Act, 1891, *ante*, p. 484.

Act provides that a reception order shall not be made unless the medical practitioner who signs the medical certificate, or where two certificates are required, each medical practitioner who signs a certificate, has personally examined the alleged lunatic, in such cases as those with which guardians or their officers have to deal, not more than seven clear days before the date of the order. Moreover, where two medical certificates are required, a reception order is not to be made unless each medical practitioner signing a certificate has examined the alleged lunatic separately from the other. 53 Vict. c. 5.

If an order or certificate for the reception of a lunatic is, after such reception, found to be in any respect incorrect or defective, the order or certificate may, within 14 days next after such reception, be amended by the person who signed the same. No amendment, however, is to be allowed unless it receives the sanction of the Commissioners in Lunacy, or of one of them. Every order and certificate so amended will take effect as if the amendment had been contained therein when it was signed. (Section 34, *ante*.)

Where a reception order has been made, and the execution of the order has been suspended, or the lunatic has been temporarily taken to a workhouse, he may be received in the institution for lunatics named in the order at any time within 14 days after the date of the reception order. (Section 36 (1), *ante*.)

If the removal of the lunatic has been suspended by reason of a medical certificate that he is not in a fit state for removal, he may be received in the institution for lunatics named in the order within three days after the date of a medical certificate that he is in a fit state to be removed. (Section 36 (2), *ante*.)

In all other cases a reception order will cease to be of any force unless the lunatic has been received under it before the expiration of seven clear days from its date. (Section 36 (3), *ante*.)

Lunatics in workhouses.

Section 24 of the new Act provides that except in the cases mentioned in the Act (*viz.*, those coming within section 20 or 21) no person is, after the 1st May next, to be allowed to remain in a workhouse as a lunatic unless the medical officer of the workhouse certifies in writing —

- (a.) That such person is a lunatic, with the grounds for the opinion; and
- (b.) That he is a proper person to be allowed to remain in a workhouse as a lunatic; and
- (c.) That the accommodation in the workhouse is sufficient for his proper care and treatment, separate from the inmates of the workhouse not lunatics, unless the medical officer certifies that the lunatic's condition is such that it is not necessary for the convenience of the lunatic or of the other inmates that he should be kept separate. (Sub-section (1), *ante*.)

A certificate under this section will be sufficient authority for detaining the lunatic therein named against his will in the workhouse for 14 days from its date. (Sub-section (2), *ante*.)

No lunatic is to be detained against his will or allowed to remain in a

53 Vict. c. 5. workhouse for more than 14 days from the date of a certificate under this section without an order under the hand of a justice having jurisdiction in the place where the workhouse is situate. Such an order may be made upon the application of a relieving officer of the union to which the workhouse belongs, supported by a medical certificate under the hand of a medical practitioner, not being an officer of the workhouse, and by the certificate under the hand of the medical officer of the workhouse before mentioned. (Sub-section (3) and (4), *ante*.)

The guardians are to pay to the medical practitioner who, not being an officer of the workhouse, examines a person for the purpose of a certificate under this section such reasonable remuneration as they think fit. (Sub-section (5), *ante*.)

No such certificate or order of a justice as is above referred to is required as regards a pauper in a workhouse at the date of the commencement of the Act, as to whom a certificate has been signed under section 20 of the Lunacy Acts Amendment Act, 1862. (Sub-section (8), *ante*.)

If, in the case of a lunatic in a workhouse, the medical officer thereof does not sign a certificate under section 24 (1) of the new Act, or if, at or before the expiration of 14 days from the date of the certificate, an order is not made under the hand of a justice for the detention of the lunatic in the workhouse, or, if after such an order has been made, the lunatic ceases to be a proper person to be detained in a workhouse, the medical officer of the workhouse is forthwith to give notice in writing to a relieving officer of the union that a pauper in the workhouse is a lunatic and a proper person to be sent to an asylum. The like proceedings must then be taken by the relieving officer and all other persons for the purpose of removing the lunatic to an asylum, and within the same time, as is provided in the case of a pauper deemed to be a lunatic and a proper person to be sent to an asylum. (a) Pending such proceedings the lunatic may be detained in the workhouse. (Sub-section (6), *ante*.)

Failure on the part of the medical officer of a workhouse to give such notice to a relieving officer will render the medical officer liable, for each day or part of a day during which his default continues, to a penalty not exceeding 10*l.* : and if the relieving officer fails to perform his duty under the section he will be liable to a similar penalty. (Section 320, *ante*.)

The provisions of section 24 of the new Act take the place of the enactments in section 45 of the Poor Law Amendment Act, 1834, which prohibited the detention in a workhouse of any dangerous lunatic for any longer periods than 14 days ; of those in section 20 of the Lunacy Acts Amendment Act, 1862, which provided that no person should be detained in a workhouse being a lunatic or alleged lunatic beyond 14 days, unless in the opinion of the workhouse medical officer the person was a proper person to be kept in a workhouse, nor unless the accommodation in the workhouse was sufficient for his reception ; and of those in section 22 of the Poor Law Amendment Act, 1867, which provided for the detention in workhouses of poor persons suffering from mental disease if the medical officer of the workhouse reported

(a) As to attachment of medical certificates to justice's order, see section 5 of the Lunacy Act, 1891, *ante*, p. 474.

that the person was not in a proper state to leave the workhouse without danger to himself or others. (a) Accordingly these enactments have all been repealed, except that in the case of the last-mentioned section, the repeal does not extend to persons suffering from delirium tremens. Moreover, this section is in no way interfered with so far as it relates to persons suffering from bodily disease of a contagious or infectious character.

It is scarcely necessary to point out the great importance of the proper observance in future of the requirements of section 24 of the new Act. It may at the same time be noticed that where a lunatic is sent to the workhouse by a justice under section 21 of the Act (which takes the place of section 3 of the Lunacy Acts Amendment Act, 1885), in a case where a summary reception order might be made, the justice's order will not authorise the detention of the lunatic in the workhouse for more than fourteen days, after which period such detention will not be in accordance with the provisions of section 24.

The guardians may make an order for the [removal or] (b) discharge of any lunatic detained in a workhouse belonging to their union.

Where a pauper lunatic is discharged from an institution for lunatics, and the medical officer of the institution is of opinion that the lunatic has not recovered and is a proper person to be kept in a workhouse as a lunatic, the medical officer is to certify such opinion, and the lunatic may thereupon be received and detained against his will in a workhouse without further order, if the medical officer of the workhouse certifies in writing that the accommodation in the workhouse is sufficient for the lunatic's proper care and treatment, separate from the inmates of the workhouse who are not lunatics, or that the lunatic's condition is such that it is not necessary for the convenience of the lunatic, or of the other inmates, that he should be kept separate. (Section 25, *ante*.)

Expenses of lunatic. Power as to dealing with estate.

Section 69 of the Lunatic Asylums Act, 1853, enabled the justice or justices causing any person to be examined by a medical practitioner, to make an order upon the guardians of the union or parish to which the person was chargeable for the payment of the reasonable remuneration of the medical man, and of all other reasonable expenses in or about the examination, the bringing him before the justice or justices, and in conveying him to an asylum. Some difficulties arose in connection with this section, as only the justice or justices causing the person to be examined could make an order under it, and the order could only be made on the guardians of the union or parish to which the person was chargeable. Hence, if he was not chargeable no order could be made. The section was repealed by the Act of 1889, and a provision was substituted for it which has been reproduced in section 285 (*ante*) of the Act of this year. Under

(a) See also as to paupers suffering from mental disease in a workhouse as to whom a report has before 1st May, 1890, been made under section 22 of the Poor Law Amendment Act, 1867, section 4 (1) of the Lunacy Act, 1891, *ante*, p. 473.

(b) Not now: see section 62 of the Lunacy Act, 1890, repealed by Lunacy Act, 1891, *ante*, pp. 222, 488.

53 Vict.c.5. this section the difficulties above referred to will not arise, as it provides that whenever a justice directs a lunatic or alleged lunatic, whether a pauper or not, to be examined by a medical practitioner under the provisions of the Act, the justice directing the examination, or any other justice having jurisdiction in the place where the examination took place, may make an order upon the guardians of the union named in the order for payment of such reasonable remuneration to the medical practitioner and of all such other reasonable expenses in and about the examination and the inquiry whether an order for the reception of the alleged lunatic in an institution for lunatics or workhouse ought to be made, and also, if an order is made, for payment of such reasonable expenses of carrying the order into effect as the justice thinks proper. Any sums paid by the guardians under such an order may be recovered by the guardians against the lunatic or alleged lunatic and his estate, and the person or authority legally liable for his maintenance as in the case of orders for maintenance.

Under sections 94 and 104 of the Lunatic Asylums Act, 1853, orders might be made by certain justices for the purpose of making a lunatic's property applicable to his maintenance. The restrictions as to the justices who could make such orders have now been removed, for section 299 (1) of the new Act (*ante*) provides that if it appears to any justice that a lunatic, chargeable to any union, has any real or personal property more than sufficient to maintain his family, if any, such justice may by order direct a relieving officer of the union to seize so much of any money, and to seize and sell so much of any other personal property of the lunatic, and to receive so much of the rents of any land of the lunatic as the justice may think sufficient to pay the expenses of maintenance and incidental expenses respectively incurred or to be incurred in relation to the lunatic. The expression "incidental expenses" is defined in section 289 (*ante*) to mean the expenses incurred in or about the examination of the lunatic, and the bringing him before a justice or justices, and his removal and conveyance to or from any institution for lunatics.

Section 299 (2) (*ante*) provides that if any trustee, or the Governor and Company of the Bank of England, or any other society or person having possession of any property of a lunatic, shall pay or deliver to a relieving officer of a union to which a lunatic is chargeable any money or other property of the lunatic, to repay the charges mentioned, whether pursuant to an order under the section, or without an order, the receipt of such relieving officer shall be a good discharge.

Where a reception order is made in the case of a lunatic, the value of whose real and personal property is under 200*l.*, and no relative or friend of the lunatic is willing to undertake the management of such property, any judge of county courts having jurisdiction in the place from which the lunatic is sent may, upon the application of the clerk of the guardians, or a relieving officer of the union from which the lunatic is sent, authorise the clerk or relieving officer, or such other person as the judge by his order appoints, to take possession of and sell and realise the real and personal property of the lunatic, and to exercise all the powers which could be exercised by the legal personal representative of the lunatic if he were dead. (Section 132 (1), *ante*.)

The judge by whom the order is made may by the same or any subsequent orders give directions as to the application of the property of the lunatic for his benefit or in reimbursement of such sums as may have been or may be expended by the guardians of the union for his care or relief, or of the costs or expenses incurred in relation to the lunatic by the guardians, or by the person acting under any such order. Moreover, the judge may order that the whole or any part of the proceeds of the lunatic's property shall be paid into the county court to the credit of an account intituled in the matter of such lunatic, and any sum so paid into court may be either invested in the manner provided by the county court rules in force for the time being, or be paid out of court from time to time to such person as the judge directs, to be held and applied for the benefit of the lunatic, or in or towards the reimbursement of the sums above referred to. (Section 132 (2), *ante*.)

The person acting under any such order of a judge of county courts is to render an account of his dealings with the lunatic's property to the judge by whom the order was made. (Section 132 (3), *ante*.)

An order may be made by a judge of county courts upon an application by the guardians of any union for payment of the expenses incurred by them in relation to a lunatic, and the order may be enforced against any property of the lunatic in the same way as a judgment of the county court. (Section 300, *ante*.)

In connection with sections 132 and 299 (1), reference may also be made to the provisions of section 206 of the Act, to which attention will presently be drawn.

Chargeability of lunatics in asylums becoming paupers.

Section 95 of the Lunatic Asylums Act, 1853, directed that where any pauper lunatic was confined under that Act, he should be chargeable to the parish from which, or at the instance of some officer or officiating clergyman of which, he had been sent to the asylum, until it had been established that he was settled in some other parish, or that it could not be ascertained in what parish he was settled. The section did not, however, deal with the case of a lunatic sent to an asylum who became a pauper after his admission. It is now provided by section 286 of the new Act (*ante*), that where a pauper lunatic is sent to an institution for lunatics or where a lunatic in an institution for lunatics becomes a pauper, he is to be deemed to be chargeable to the union from which he was sent, until it has been established in the manner provided by the Act (sections 288—290, *ante*), that he is settled in some other union, or that it cannot be ascertained in what union he was settled, and the manager of the institution is forthwith to give to the authority liable for his maintenance notice that the lunatic has become destitute.

Boarding-out lunatics.

In accordance with a recommendation of the Select Committee on Lunacy Law in 1878, provision is now made for the boarding-out of pauper lunatics with their relatives. Section 57 (*ante*) of the Act of this session

53 Vict. c. 5. provides, as regards pauper lunatics chargeable to a union, that where application is made to the visiting committee of an asylum by any friend or relative of a lunatic confined therein, that he may be delivered over to the custody of such relative or friend, the committee may, upon being satisfied that the application has been approved by the guardians of the union to which the lunatic is chargeable, and, in case the proposed residence is outside the limits of such union, then also by a justice having jurisdiction in the place where the relative or friend resides, and that the lunatic will be properly taken care of, order the lunatic to be delivered over accordingly.

The term "relative" is defined by section 341 (*ante*) to mean a lineal ancestor or lineal descendant, or a lineal descendant of an ancestor not more remote than great grandfather or great grandmother.

Where an order is made for the delivery of a pauper lunatic chargeable to a union into the custody of a relative or friend, the guardians are to pay to the person to whom the lunatic is delivered such allowance for the maintenance of the lunatic, not exceeding the expenses which would be incurred on his account if he were in the asylum, as the guardians, on the recommendation of the visiting committee of the asylum from which the lunatic was delivered over, think proper. (Section 57 (2), *ante*.)

The lunatic is to be visited, once in every quarter of a year, by the medical officer of the union or district in which the lunatic is resident, who must, within three days after each quarterly visit, send to the visiting committee a report stating whether, in his opinion, the lunatic is properly taken care of, and may properly remain out of an asylum, and for every such report the medical officer is to be paid two shillings and sixpence in addition to the sum of two shillings and sixpence for each quarterly visit. The payment is to be made by the same persons and to be charged to the same account as the relief of the pauper. (Section 202 (3) and (4), *ante*.)

It is important to observe that for the purposes of section 24 (2) (*f*) of the Local Government Act, 1888, a lunatic boarded-out by the authorities of any asylum is to be deemed to be a lunatic maintained in an asylum. (Section 57 (3), *ante*.) Consequently it will be incumbent on every county council to pay to the guardians of every union wholly or partly in the county a sum equal to 4s. a week for each pauper lunatic chargeable to the union who is boarded-out, and for whom the net charge upon the guardians, after deducting any amount received by them for the maintenance of the lunatic from any source other than local rates, is equal to or exceeds 4s. a week throughout the period of maintenance for which the sum is paid. This requirement will, of course, be subject to sub-section (5) of section 24 of the Local Government Act, which provides for an apportionment of the sum otherwise payable by the county council, where the union is situate in more than one administrative county.

Lunatics in private families, or in charitable or other establishments.

By section 206 (*ante*) of the new statute, it is enacted that if it comes to the knowledge of the Commissioners in Lunacy that any person appears to be, without an order and certificates, detained or treated as a lunatic, or alleged lunatic, by any person receiving no payment for the charge, or in any charitable, religious, or other establishment (not being an institution

for lunatics), they may require the person by whom the patient is detained, 53 Vict.c. 5.
 or the superintendent or principal officer of the establishment, to send to them a report or periodical reports by a medical practitioner of the mental and bodily condition of the patient, with all such other particulars as to him and his property as they may think fit. Any one or more of the Commissioners may at any time visit any such patient and report the result of the visit to the Commissioners, and may exercise, with respect to such patient, all the powers (except that of discharge) given to them as to persons confined in an institution for lunatics or as single patients. The Commissioners may transmit any reports received by them, or may report the results of any inquiries made by them under this section to the Lord Chancellor, who may thereupon make an order for the discharge of the patient from the custody in which he is detained, or for his removal to an institution for lunatics, or to such other custody as he may think fit, and the expenses properly incurred of carrying any such order into effect, and of maintaining the patient, if so removed, are, if the order so directs, to be paid by the guardians of the union in which the patient was found until the authority legally liable for his maintenance has been ascertained. The guardians will have the same right to recover any such expenses paid by them against the lunatic and his estate, and the person or authority legally liable for his maintenance, as in the case of orders for maintenance under the Act.

Where an order is made by the Lord Chancellor under this section for removal of a lunatic to an asylum, any justice of the county or borough in which the asylum is may exercise all the authorities conferred upon a justice by the Act, for the purpose of making the lunatic's property applicable to his maintenance, and for maintaining him as a pauper. (Section 206 (4), *ante*.)

Discharge of pauper lunatic from hospital or licensed house.

The guardians are empowered to make an order for the discharge of any pauper lunatic detained in a hospital or licensed house, for whose maintenance they are liable, and to direct the mode of discharge. (Section 73, *ante*.)

When the Commissioners in Lunacy have made any order for the discharge of a pauper lunatic, which they are empowered to do in the case of a patient detained in any hospital or licensed house, they are to give notice of such order to the authority liable for the maintenance of the lunatic. (Section 76 (1), *ante*).

Mechanical means of restraint.

Some important restrictions have been placed by the recent Act on the use of mechanical means of restraint on lunatics. It is directed by section 40 (*ante*) that mechanical means of bodily restraint shall not be applied to any lunatic unless the restraint is necessary for purposes of surgical or medical treatment, or to prevent the lunatic from injuring himself or others, and in every case where such restraint is applied, a medical certificate must,

53 Vict. c. 5. as soon as it can be obtained, be signed, describing the mechanical means used, and stating the grounds upon which the certificate is founded. (*a*)

The certificate is to be signed, in the case of a lunatic in a workhouse, by the medical officer of the workhouse. (Sub-section (3), *ante*.)

A full record of every case of restraint by mechanical means must be kept from day to day; and a copy of every such record and certificate is to be sent to the Commissioners in Lunacy at the end of every quarter. (Sub-section (4), *ante*.)

In the case of a workhouse, the record is to be kept by the medical officer of the workhouse, and the copies of records and certificates to be sent are to be sent by the clerk to the guardians. (Sub-section (5), *ante*.)

Sub-section (6) provides that in the application of this section "mechanical means" shall be such instruments and appliances as the Commissioners may, by regulations to be made from time to time, determine. The Board will furnish a copy of the regulations made by the Commissioners as soon as they are received by the Board (*a*).

Any person who wilfully acts in contravention of the section will be guilty of a misdemeanor. (Sub-section (7), *ante*.)

Rating of lunatic asylums.

It was provided by section 35 of the Lunatic Asylums Act, 1853, that no lands or buildings purchased or acquired for the purposes of any asylum should, while used for these purposes, be assessed to any local rates at a higher value or more improved rent than the value or rent at which they were assessed at the time of the purchase or acquisition.

Complaint has frequently been made of the inequitable operation of this section. The injustice complained of has now been removed, for section 263 of the new Act (*ante*) provides that lands and buildings already or to be hereafter purchased or acquired for the purposes of any asylum, and any additional building erected or to be erected thereon, shall, while used for those purposes, be assessed to county, parochial, district, and other rates made after the commencement of the Act, on the same basis and to the same extent as other lands and buildings in the same parish, township, or district.

In every case in which a parish contains lands or buildings purchased or acquired for asylum purposes, steps should be taken for the revision of the valuation list, so far as such lands or buildings are concerned.

Asylum to which lunatic may be removed from workhouses in certain cases.

Section 72 of the Lunatic Asylums Act, 1853, provided that every lunatic should, under any order made by a justice or justices for his reception into an asylum, be sent to an asylum of the county or borough in which the parish or place from which he was sent was situate, unless there was no asylum, or there was a deficiency of room, or unless there were some special circumstances by reason of which he could not conveniently be taken to

(*a*) See Regulation as to Mechanical Restraint, 25th June, 1913, *ante*, p. 564.

such asylum. To this rule an exception has now been made, where the 53 Vict.c. 5.
 union is in more than one county, and the workhouse of the union is in one county, and the place from which the lunatic was sent to the workhouse is in another county. Section 68 of the Act of 1890 (*ante*) provides that, in such a case, an order may be made by a justice for the county in which the workhouse is, or a justice for the county from which the lunatic was sent, for the removal of the lunatic, either to the asylum of the county in which the workhouse is, or to the asylum of the county from which the lunatic was sent, and such latter order may be made notwithstanding that there may be an asylum of the county in which the workhouse is, and there may not be a deficiency of room or any other special circumstances by reason whereof the lunatic cannot conveniently be taken to that asylum (*a*).

Abuse of female lunatic.

It is expressly provided by the new Act, that if any officer, nurse, attendant, or other person employed in any workhouse, carnally knows or attempts to have carnal knowledge of any female under care or treatment as a lunatic in the workhouse, he will be guilty of a misdemeanor, and, on conviction, will be liable to be imprisoned, with or without hard labour, for a term not exceeding two years. No consent or alleged consent of such female will be any defence to an indictment or prosecution for such offence. (Section 324, *ante*.) (*b*)

Rules and Forms.

By section 338 of the recent Act, the Commissioners in Lunacy are empowered, with the approval of the Lord Chancellor, by rules, to prescribe the returns, reports, extracts, copies, statements, notices, plans, documents, and information to be sent to the Commissioners or any authority or person, and the persons by whom, the times within which, and the manner in which they are to be made and sent; and also to prescribe forms for these purposes in addition to or in substitution for any forms now in use. The rules will have effect as if enacted by the Act. Subject to any rules made under the section, the existing rules are, so far as applicable, to continue in force.

The Commissioners have, with the approval of the Lord Chancellor, made certain rules under this section, which are to come into operation on the 1st proximo. The rules which concern guardians and their officers are those numbered 1 (5), 4, 28, and 29, and copies of these rules and of the forms referred to in them are enclosed. (*a*) By the rules the Commissioners have prescribed a form of register of mechanical restraint which is to be kept in every workhouse, for the purposes of section 40 of the Act; and forms for the purposes of the quarterly return to be made by every poor law medical officer of all pauper lunatics visited by him, and of the annual list to be made by the clerk to the guardians of all lunatics chargeable to the union. These forms are to be used in lieu of those prescribed for the

(*a*) As to cases where the union is wholly in one county, and its workhouse in another, see section 6 of the Lunacy Act, 1891, *ante*, p. 474.

(*b*) The range of this offence has been widened by the Mental Deficiency Act, 1913.

53 Vict. c. 5. same purposes in Schedule B. of the Lunacy Act Amendment Act, 1862, and in Schedule D. of the Lunatic Asylums Act, 1853, and the rules contain directions as to the times when the returns and lists are to be made and the authorities and persons to whom copies are to be sent. The provisions on these subjects in sections 64 and 66 of the Act of 1853 have not been re-enacted, and are consequently superseded by these rules. Under section 202 (2) of the new Act (*ante*) the guardians must furnish the medical officers of the union with forms for the prescribed returns to be made by those officers. It is desirable that the attention of those officers should be specially drawn to the provision in rule 28 (*a*) that where there is no pauper lunatic within the district or workhouse for which the medical officer is appointed, he is to make a return to that effect, in the Form (No. 18) (*a*) prescribed by the rules.

Subject to rules made by the Commissioners in Lunacy, or the Lord Chancellor, under section 338 of the Act, the forms in the Second Schedule may be used, wherever applicable, with such modifications as circumstances may require. If used, they are to be deemed to be sufficient. (Section 339.) (*a*)

The Board have thus drawn attention to the chief points in which the law with regard to lunacy has been practically altered by the Act of 1890, so far as matters affecting guardians and their officers are concerned. It is evidently necessary that those officers of the guardians who have specially to deal with lunatics, and particularly the relieving officers and the medical officers, should at once make themselves acquainted with the parts of the new Act affecting their duties, and the Board forward copies of this letter for distribution among such officers.

It should be added that the term "guardians" as used in the Act includes guardians or other body of persons performing under any local Act the like functions as guardians under the Poor Law Amendment Act, 1834, and that "union" means any parish or union of parishes for which there is a separate board of guardians. (Section 341, *ante*.)

I am, Sir,
Your obedient Servant,
HUGH OWEN,
Secretary.

The Clerk to the Guardians.

(*a*) See now Rules of the Commissioners in Lunacy, 26th June, 1895, *et seq.*

GENERAL ORDER OF THE LOCAL GOVERNMENT BOARD.

Gen. Order.

(No. 28,768.)

Dated the 15th September, 1892, under the District Auditors Act, 1879, the Local Government Act, 1888, and the Lunacy Act, 1891. Prescribing the Form of Financial Statement (Statutory) to be submitted to the district auditor by the visiting committees of county lunatic asylums (except Lancaster).

To the county councils of the several administrative counties in England and Wales, except the administrative county of Lancaster ;—

To the visiting committees of the several lunatic asylums belonging wholly or in part to any of the said county councils ;—

To the district auditors for the time being authorised to audit the accounts of the said visiting committees respectively ;—

And to all others whom it may concern.

WHEREAS by section 18 of the Lunacy Act, 1891, it is enacted that “ the provisions of the Local Government Act, 1888, relating to the accounts of county councils and their officers, and to the audit of such accounts, shall apply to the accounts of every asylum belonging wholly or in part to a county council and of the visiting committee and officers thereof ; ”

And whereas by sub-section (3) of section 71 of the Local Government Act, 1888, it is enacted as follows :—

“ The accounts of a county council, and of the county treasurer and officers of such council, shall be audited by the district auditors appointed by the Local Government Board in like manner as accounts of an urban authority and their officers under sections two hundred and forty-seven and two hundred and fifty of the Public Health Act, 1875, and those sections and all enactments amending them, or applying to audit by district auditors, including the enactments imposing penalties and providing for the recovery of sums, shall apply in like manner as if, so far as they relate to an audit of the accounts of an urban authority and the officers of such authority, they were herein re-enacted with the necessary modifications, and accordingly all ratepayers and owners of property in the county shall have the like rights, and there shall be the same appeal as in the case of such audit.

Gen. Order.

Provided that the First Schedule to the District Auditors Act, 1879, shall be modified in manner described in the second Schedule to this Act."

And whereas by section 3 of the District Auditors Act, 1879, it is enacted as follows :—

" Where the accounts of the receipts and expenditure of a local authority are audited by a district auditor, the local authority shall prepare and submit to the district auditor at every audit (other than an extraordinary audit held in pursuance of section 6 of the Poor Law Amendment Act, 1866) a financial statement in duplicate in the prescribed form and containing the prescribed particulars ; one of such duplicates shall have the stamp charged under this Act affixed thereon, and the auditor at the conclusion of the audit shall cancel that stamp, and certify on each duplicate, in the prescribed form, the amount in words at length of the expenditure so audited and allowed, and further that the regulations with respect to such statement have been duly complied with, and that he has ascertained by the audit the correctness of the statement."

And whereas a visiting committee of a lunatic asylum belonging wholly or in part to a county council is a local authority within the terms of the last-cited section :

Now, therefore, We, the Local Government Board, hereby order and prescribe as follows with respect to each of the administrative counties in England and Wales, except the administrative county of Lancaster :—

Art. 1. The financial statement to be prepared and submitted to the district auditor in duplicate by the visiting committee of a lunatic asylum belonging wholly to the county council of any of the said administrative counties, as a local authority, in accordance with the provisions of the section last above-cited, shall be in the Form A, in the Schedule to this Order, and shall contain the particulars therein specified or referred to, except so far as We may assent to a departure from such form ; and the certificate of the district auditor to be appended to each such duplicate shall be in the form set forth at the foot of the said statement.

Art. 2. The financial statement to be prepared and submitted to the district auditor in duplicate by the visiting committee of a lunatic asylum belonging in part only to the county council of any of the said administrative counties, as a local authority, in accordance with the provisions of the section last above-cited, shall be in the Form B. in the Schedule to this Order, and shall contain the particulars therein specified or referred to, except so far as We may assent to a departure from such form ; and the certificate of the district auditor to be appended to each such duplicate shall be in the form set forth at the foot of the said statement.

SCHEDULE.

FORM A.

LUNATIC ASYLUM BELONGING WHOLLY TO THE COUNTY COUNCIL
OF THE ADMINISTRATIVE COUNTY OF _____

FINANCIAL STATEMENT.

THE DISTRICT AUDITORS ACT, 1879 (42 VICT. c. 6),
THE LOCAL GOVERNMENT ACT, 1888
(51 & 52 VICT. c. 41), AND
THE LUNACY ACT, 1891 (54 & 55 VICT. c. 65).

STATEMENT OF THE RECEIPTS AND EXPENDITURE OF THE
VISITING COMMITTEE OF THE ABOVE-MENTIONED LUNATIC
ASYLUM DURING THE YEAR ENDED THE 31ST OF MARCH,
189 .

Schedule.

PART I.—

RECEIPTS.				£	s.	d.	£	s.	d.
Balance in hand at the commencement of the year	..	..	..			
Goods sold, namely :—				£	s.	d.			
Farm and Garden Sales *	..	..	..			
Kitchen Stuff and old Stores	..	..	..			
Sundries	..	..	..			
Sums received on account of the main- tenance of—				£	s.	d.			
(a.) Pauper Patients :—									
From Guardians of Unions and Parishes within the County at s. d. per head per week	..	..	..			
From Guardians of other Unions and Parishes at s. d. per head per week	..	..	..			
From the Treasurer of the County for Patients adjudged charge- able thereto	..	..	..			
From the Treasurer of the County under section 269 (9) of the Lunacy Act, 1890, in respect of accommodation at other Asy- lums, not exceeding one-fourth of the entire weekly charge	..	..	..			
From the Treasurers of non-con- tributory Counties and Bo- roughs at s. d. per head per week	..	..	..			
From the Treasurers of non-con- tributory Boroughs and of Coun- ties in respect of non-contribu- tory Boroughs for excess of weekly charge above ordinary rate (30 & 31 Vict. c. 106, s. 23)	..	..	..			
From the Treasurers of other Asylums for Patients received under Contract or arrangement at s. d. per head per week	..	..	..			
Other Receipts, if any, viz. :—									
(b.) Private Patients :—	..	..	..			
(c.) Criminal Patients :—				£	s.	d.			
From Parliamentary Vote	..	..	..			
From Private Funds of Patients or their Friends	..	..	..			
Funeral and Removal Expenses :—									
From Guardians of Unions and Parishes	..	..	..			
From Treasurers of Counties and Boroughs	..	..	..			
Other Receipts, specifying them :— †				£	s.	d.			
TOTAL RECEIPTS	..	..	..			
Balance due at the end of the year, viz. :—									
TOTAL OF RECEIPTS AND BALANCES	..	..	..	£		

* This item should agree with the corresponding entry in the Farming and Gardening Account (Part III. of this Statement).
† See note † on page 606, *post*.

MAINTENANCE ACCOUNT.

Schedule.

EXPENDITURE.		£ s. d.	£ s. d.
Balance due at the commencement of the year .. ..		.. ..
Salaries and Wages (not including Payments for Labour appearing in the Farming and Gardening Account, nor comprised in the Building and Repairs Fund Account), namely:—	£ s. d.		
Officers			
Attendants and others			
Provisions (including Malt Liquor in ordinary diet) ..			
Malt Liquor, Wine, and Spirits (not included in ordinary Diet)			
Farm and Garden Expenses *			
Clothing—	£ s. d.		
For Patients			
For Attendants			
Necessaries (including Fuel, Lighting, and Washing) ..			
Surgery and Dispensary			
Furniture and Bedding			
Funeral Expenses			
Payments to Treasurers of other Asylums for Patients under Contract or arrangement			
Transfer to the Building and Repairs Fund Account, namely:—	£ s. d.		
(a.) Excess of Weekly Charge on ..			
“ Out-County ” Patients ..			
(b.) Excess of Weekly Charge on ..			
Private Patients			
Payments to other Local Authorities, specifying them:—	£ s. d.		

Other Payments, specifying them:—	£ s. d.		

TOTAL EXPENDITURE .. .. .		.. ..
Balance in hand at the end of the year, viz.:—			

TOTAL OF EXPENDITURE AND BALANCES £	

* This item should include all the sums entered as paid in the Farming and Gardening Account (Part III. of this Statement).

Schedule.

PART II.—BUILDING AND

RECEIPTS.	Money raised by means of Loans.		Other Moneys.	
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Balance in hand at the com- mencement of the year
Sums received from the Treasurer of the County on account of—				
Ordinary Repairs ..				
Additions, Alterations, and Improvements (under 400l.)				
New Buildings and Extra- ordinary Outlay (voted by County Council) ..				
From other Local Authori- ties, specifying them:—				
_____ £ s. d.				

Other Receipts, specifying them:—				

Transfers from the Mainte- nance Account, namely:—				
(a.) Excess of Weekly Charge on "Out- County" Patients		
(b.) Excess of Weekly Charge on Private Patients		
TOTAL RECEIPTS
Balance due at the end of the year
TOTAL OF RECEIPTS AND BALANCES

SUMMARY OF RECEIPTS IN PARTS I. AND II.

RECEIPTS:—	£ s. d.	£ s. d.
Maintenance Account
Building and Repairs Fund Account:—		
Moneys raised by means of Loans
Other Moneys
TOTAL
Less Transfers from the Maintenance Account to the Building and Repairs Fund Account
TOTAL RECEIPTS	£

REPAIRS FUND ACCOUNT.

EXPENDITURE.	Out of Moneys raised by means of Loans.		Out of other Moneys.	
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Balance due at the commencement of the year ..				
Sums paid on account of—				
Ordinary Repairs ..				
Additions, Alterations, and Improvements (under 400l.)				
New Buildings and Extraordinary Outlay voted by County Council)				
Payments to other Local Authorities, specifying them:—				
_____ £ s. d.				

Other Payments, specifying them: _____				

TOTAL EXPENDITURE	
Balances in hand at the end of the year	
TOTAL OF EXPENDITURE AND BALANCES	

SUMMARY OF EXPENDITURE IN PARTS I. AND II.

EXPENDITURE:—	£ s. d.	£ s. d.
Maintenance Account	
Building and Repairs Fund Account	
Out of Moneys raised by means of Loans	
Out of other Moneys	
TOTAL	
Less Transfers from the Maintenance Account to the Building and Repairs Fund Account	
TOTAL EXPENDITURE	£	

Schedule.

PART III.—FARMING AND

RECEIPTS.										
					£	s.	d.	£	s.	d.
Sums received during the year from Sales *					..	..	..
Value of Goods supplied to the Asylum during the year, viz. :—										
					£	s.	d.			
Beef, Mutton, Pork, &c.										
Poultry and Eggs										
Milk, Butter, and Cheese										
Potatoes and other Vegetables ..										
Other items, viz. :—										

Other Receipts, specifying them :— †										
					£	s.	d.			

TOTAL RECEIPTS .. .. .					..	..	..
Value of Stock at the end of the year .. .. .					..	..	..
Balance (if any) against Farm and Garden .. ..					..	..	..
TOTAL .. .. .					..	..	..

* See note * on page 602, ante.

† The items included under this heading, if cash receipts, should also be entered under the heading “Other Receipts,” in the Maintenance Account (Part I. of this Statement).

I HEREBY CERTIFY that I have compared the entries in this Financial State-Regulations with respect to such Statement have been duly complied with.

I hereby further certify that I have ascertained by Audit the correctness of the year ended the 31st day of March, 189 , included in such Statement, and

‡ Amount to be inserted in words at length.

GARDENING ACCOUNT.

Schedule.

EXPENDITURE.			£	s.	d.	£	s.	d.
Value of Stock at the commencement of the year .. .. .			..	..
Sums paid during the year in respect of—								
Labour (not that of Patients)								
Provender								
Seeds and Manures								
Stock, Live and Dead (bought)								
Other Payments, specifying them :—								
_____	£	s.	d.					

TOTAL EXPENDITURE								
Balance (if any) in favour of Farm and Garden								
TOTAL						£		

_____ Clerk of Asylum.
 _____ day of _____, 189_____

	£	s.	d.
TOTAL EXPENDITURE as shown in Summary of Parts I. and II.			
AMOUNT DISALLOWED AT AUDIT			
AMOUNT ALLOWED AT AUDIT			

ment with the Vouchers and other Documents relating thereto, and that the such Statement, and that the expenditure of the Visiting Committee during allowed by me at the Audit, is £_____

As witness my hand this _____ day of _____, 189—.

_____ Stamp. _____ District Auditor.

Schedule.

SCHEDULE.

FORM B.

LUNATIC ASYLUM BELONGING TO THE COUNCILS OF THE
UNDER-MENTIONED COUNT [AND BOROUGH], VIZ. :—

THE ADMINISTRATIVE COUNT OF _____

[AND THE BOROUGH OF] _____

FINANCIAL STATEMENT.

THE DISTRICT AUDITORS ACT, 1879 (42 VICT. c. 6),

THE LOCAL GOVERNMENT ACT, 1888

(51 & 52 VICT. c. 41),

AND

THE LUNACY ACT, 1891 (54 & 55 VICT. c. 65).

STATEMENT OF THE RECEIPTS AND EXPENDITURE OF THE
VISITING COMMITTEE OF THE ABOVE-MENTIONED LUNATIC
ASYLUM DURING THE YEAR ENDED THE 31ST MARCH,
189 .

Schedule.

PART I.—

RECEIPTS.			£	s.	d.	£	s.	d.
Balance in hand at the commencement of the year	..	..	..	..	..
Goods sold, namely :—			£	s.	d.			
Farm and Garden Sales * .. ..	..	..				
Kitchen Stuff and old Stores .. ..	..	..				
Sundries .. ..	..	..				
Sums received on account of the maintenance of—								
(a.) Pauper Patients :—			£	s.	d.			
From Guardians of Unions and within the Contributory Counties and Boroughs at	s.	d.						
per head per week .. ..	..	..				
From Guardians of other Unions and Parishes at	s.	d.						
per head per week .. ..	..	..				
From the Treasurers of Counties and Boroughs for Patients adjudged chargeable thereto, namely :—								
Of the Contributory Counties and Boroughs at	s.	d.						
per head per week .. ..	..	..				
Of Non-contributory Counties and Boroughs at	s.	d.						
per head per week .. ..	..	..				
From the Treasurers of the Contributory Counties and Boroughs under Section 269 (9) of the Lunacy Act, 1890, in respect of accommodation at other Asylums, not exceeding one-fourth of the entire weekly charge .. ..	..	..				
From the Treasurers of Non-contributory Boroughs and of Counties in respect of non-Contributory Boroughs for excess of weekly charge above ordinary rate (30 & 31 Vict. c. 106, s. 23) .. ..	..	..				
From the Treasurers of other Asylums for Patients received under Contract or arrangement at	s.	d.						
Other Receipts, if any, viz. :—								
(b.) Private Patients .. ..	..	..				
(c.) Criminal Patients :—			£	s.	d.			
From Parliamentary Vote .. ..	..	..				
From Private Funds of Patients or their Friends .. ..	..	..				
Funeral and Removal Expenses :—								
From Guardians of Unions and Parishes .. ..	..	..				
From Treasurers of Counties and Boroughs .. ..	..	..				
Other Receipts, specifying them :— †			£	s.	d.			
TOTAL RECEIPTS .. ..	..	..	..	..	..
Balance due at the end of the year, viz. :—								
TOTAL OF RECEIPTS AND BALANCES .. ..	..	..	£			

* This item should agree with the corresponding entry in the Farming and Gardening Account (Part III. of this Statement).

† See note † on page 614, *post*.

MAINTENANCE ACCOUNT.

Schedule.

EXPENDITURE.				£	s.	d.	£	s.	d.
Balance due at the commencement of the year .. ..				..	..
Salaries and Wages (not including Payments for Labour appearing in the Farming and Gardening Account, nor comprised in the Building and Repairs Fund Account), namely :—									
Officers				£	s.	d.			
Attendants and others									
Provisions (including Malt Liquor in ordinary Diet) ..									
Malt Liquor, Wine, and Spirits (not included in ordinary Diet)									
Farm and Garden Expenses *									
Clothing :—									
For Patients				£	s.	d.			
For Attendants									
Necessaries (including Fuel, Lighting, and Washing) ..									
Surgery and Dispensary									
Furniture and Bedding									
Funeral Expenses									
Payments to Treasurers of other Asylums for Patients under Contract or arrangement									
Transfers to the Building and Repairs Fund Account, namely :—									
(a.) Excess of Weekly Charge on "Out-County" Patients				£	s.	d.			
(b.) Excess of Weekly Charge on Private Patients									
Payments to other Local Authorities, specifying them :—									
				£	s.	d.			
Other Payments, specifying them :—									
				£	s.	d.			
TOTAL EXPENDITURE									
Balance in hand at the end of the year, viz. :—									
TOTAL OF EXPENDITURE AND BALANCES							£		

* This item should include all the sums entered as paid in the Farming and Gardening Account (Part III. of this Statement).

Schedule.

PART II.—BUILDING AND

RECEIPTS.				Moneys raised by means of Loans.		Other Moneys.	
				£ s. d.	£ s. d.	£ s. d.	£ s. d.
Balance in hand at the commencement of the year				.. ..		.. ..
Sums received from the Treasurers of the Contributory Counties and Boroughs, viz. :—							
Name of County or Borough.	On account of						
	Ordinary Repairs.	Additions, Alterations, and Improvements (under 400 <i>l.</i>)	New Buildings and Extraordinary Outlay.				
	£ s. d.	£ s. d.	£ s. d.	£ s. d.			
Totals ..							
From the Local Authorities, specifying them :—				£ s. d.			
Other Receipts, specifying them :—							
Transfers from the Maintenance Account, namely :—							
(a.) Excess of Weekly Charge on "Out-County" Patients							
(b.) Excess of Weekly Charge on Private Patients							
TOTAL RECEIPTS							
Balance due at the end of the Year							
TOTAL OF RECEIPTS AND BALANCES							

SUMMARY OF RECEIPTS IN PARTS I. AND II.

RECEIPTS :	£ s. d.	£ s. d.
Maintenance Account		
Building and Repairs Fund Account :—		
Moneys raised by means of Loans		
Other Moneys		
TOTAL		
Less Transfers for the Maintenance Account to the Building and Repairs Fund Account		
TOTAL RECEIPTS	£	

REPAIRS FUND ACCOUNT.

Schedule.

EXPENDITURE.	Out of Moneys raised by means of Loans.		Out of other Moneys.	
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Balance due at the commencement of the year	
Sums paid on account of—				
Ordinary Repairs				
Additions, Alterations, and Improvements (under 400l.)				
New Buildings and Extraordinary Outlay ..				
Payments to other Local Authorities, specifying them :—				
_____ (£ s. d.)				

Other Payments, specifying them :—				

TOTAL EXPENDITURE	
Balances in hand at the end of the year	
TOTALS OF EXPENDITURE AND BALANCES			

SUMMARY OF EXPENDITURE IN PARTS I. AND II.

EXPENDITURE :	£ s. d.	£ s. d.
Maintenance Account		
Building and Repairs Fund Account :—		
Out of moneys raised by means of Loans		
Out of other Moneys		
TOTAL		
Less Transfers from the Maintenance Account to the Building and Repairs Fund Account		
TOTAL EXPENDITURE	£	

Schedule.

PART III.—FARMING AND

RECEIPTS.							
				£	s.	d.	£ s. d.
Sums received during the year from Sales *	..	..	..	..	..	..
Value of Goods supplied to the Asylum during the year, viz. :—							
Beef, Mutton, Pork, &c.	£	s.	d.				
Poultry and Eggs							
Milk, Butter, and Cheese							
Potatoes and other Vegetables ..							
Other items, viz. :—							

Other Receipts, specifying them :— †							
_____	£	s.	d.				

TOTAL RECEIPTS .. ..	..	..	..	..	..	..
Value of Stock at the end of the year .. ..	..	..	..	..	..	..
Balance (if any) against Farm and Garden .. ..	..	..	..	..	..	..
TOTAL	£						

* See note * on page 610, *ante*.

† The items included under this heading, if cash receipts, should also be entered under the heading "Other Receipts," in the Maintenance Account (Part I. of this Statement).

I HEREBY CERTIFY that I have compared the entries in this Financial Statement with respect to such Statement have been duly complied with.

I hereby further certify that I have ascertained by Audit the correctness of the year ended the 31st day of March, 189 , included in such Statement, and

‡ Amount to be inserted in words at length.

GARDENING ACCOUNT.

Schedule.

EXPENDITURE.			£	s.	d.	£	s.	d.
Value of Stock at the commencement of the year .. .. .			..	..	..
Sums paid during the year in respect of—								
Labour (not that of Patients)								
Provender								
Seeds and Manures								
Stock, Live and Dead (bought)								
Other Payments, specifying them :—								
_____			£	s.	d.			

TOTAL EXPENDITURE								
Balance (if any) in favour of Farm and Garden								
TOTAL			£					

_____ Clerk of Asylum.
_____ day of _____, 189_____.

	£	s.	d.
TOTAL EXPENDITURE as shown in Summary of Parts I. and II.			
AMOUNT DISALLOWED AT AUDIT			
AMOUNT ALLOWED AT AUDIT			

ment with the Vouchers and other Documents relating thereto, and that the such Statement, and that the expenditure of the Visiting Committee during allowed by me at the Audit, is £_____

As witness my hand this _____ day of _____, 189_____.

_____ Stamp. _____ District Auditor.

Schedule. Given under the Seal of Office of the Local Government Board, this fifteenth day of September, in the year one thousand eight hundred and ninety-two.

HENRY H. FOWLER,
President.



S. B. PROVIS,
Assistant Secretary.

Gen. Order. GENERAL ORDER OF THE LOCAL GOVERNMENT
BOARD.
(No. 29,366.)

Dated the 24th March, 1893, under the District Auditors Act, 1879, and the Lancashire County (Lunatic Asylums and other Powers) Act, 1891. Prescribing the Form of Financial Statement (Statutory) to be submitted to the district auditor by the Lancashire Asylums Board. (a)

TO THE LANCASHIRE ASYLUMS BOARD.

- To the visiting committees of the lunatic asylums belonging to the said asylums board ;—
 - To the county council of the administrative county of Lancaster ;—
 - To the councils of the county boroughs of Barrow-in-Furness, Blackburn, Bolton, Bootle, Burnley, Bury, Liverpool, Manchester, Oldham, Preston, Rochdale, Saint Helen's, Salford, Stockport, and Wigan ;—
 - To the district auditor for the time being authorised to audit the accounts of the said board and the said visiting committees ;—
- And to all others whom it may concern.

WHEREAS by section 28 of the Lancashire County (Lunatic Asylums and other Powers) Act, 1891, it is enacted that the accounts of the receipts and expenditure of the Lancashire Asylums Board and of committees of the Board shall be made up to the end of each financial year ending on the

(a) Since the issue of this circular there has come into force the Lancashire County (Lunatic Asylums) Act, 1902, *post*, p. 517 *seq.*, which it will be seen repeals and enlarges some of the sections of the Lancashire County (Lunatic Asylums) Act of 1891, *post*, p. 493 *seq.*

thirty-first day of March, and shall be in the Form for the time being prescribed by the Local Government Board ;

And whereas by section 30 of the said Act it is enacted as follows :—

“ The accounts of the Board and the committees of the Board shall be audited by the district auditors appointed by the Local Government Board in like manner as accounts of an urban authority and their officers under sections two hundred and forty-seven and two hundred and fifty of the Public Health Act, 1875, and those sections and all enactments amending them or applying to audit by district auditors (including the enactments imposing penalties and providing for the recovery of sums) shall apply in like manner as if so far as they relate to an audit of the accounts of an urban authority and the officers of such authority they were herein re-enacted with the necessary modifications, and accordingly all ratepayers and owners of property in the county and in each county borough shall have the like rights, and there shall be the same appeal as in the case of such audit. Provided that the First Schedule to the District Auditors Act, 1879, shall be modified in manner described in the Fourth Schedule to this Act.”

And whereas by section 3 of the District Auditors Act, 1879, it is enacted as follows :—

“ Where the accounts of the receipts and expenditure of a local authority are audited by a district auditor, the local authority shall prepare and submit to the district auditor at every audit (other than an extraordinary audit held in pursuance of section 6 of the Poor Law Amendment Act, 1866), a financial statement in duplicate in the prescribed Form and containing the prescribed particulars ; one of such duplicates shall have the stamp charged under this Act affixed thereon, and the auditor at the conclusion of the audit shall cancel that stamp, and certify on each duplicate, in the prescribed Form, the amount in words at length of the expenditure so audited and allowed, and further, that the regulations with respect to such statement have been duly complied with, and that he has ascertained by the audit the correctness of the statement.”

And whereas the Lancashire Asylums Board and the visiting committees of the lunatic asylums belonging to the said Board are local authorities within the terms of the said section 3 of the District Auditors Act, 1879 :

NOW THEREFORE, We, the Local Government Board, hereby order and prescribe as follows with respect to the said Lancashire Asylums Board and the said visiting committees :—

Art. 1. The financial statement to be prepared and submitted to the district auditor in duplicate by the visiting committee of each lunatic asylum belonging to the said Asylums Board, as a local authority, in accordance with the provisions of the section last above cited, shall be in the Form A. in the Schedule to this Order, and shall contain the particulars therein specified or referred to, and the certificate of the district auditor to be appended to each such duplicate shall be in the Form set forth at the

Gen. Order. foot of the said statement, except so far as we may assent to a departure from either of such Forms.

Art. 2. The financial statement to be prepared and submitted to the district auditor in duplicate by the said Asylums Board, as a local authority, in accordance with the provisions of the section last above cited, shall be in the Form B. in the Schedule to this Order, and shall contain the particulars therein specified or referred to, and the certificate of the district auditor to be appended to each such duplicate shall be in the Form set forth at the foot of the said statement, except so far as we may assent to a departure from either of such Forms.

SCHEDULE.

FORM A.

LANCASHIRE ASYLUMS BOARD.

LUNATIC ASYLUM.

FINANCIAL STATEMENT.

THE DISTRICT AUDITORS ACT, 1879 (42 VICT. c. 6),

AND

THE LANCASHIRE COUNTY (LUNATIC ASYLUMS AND
OTHER POWERS) ACT, 1891 (54 VICT. c. xx.).

STATEMENT OF THE RECEIPTS AND EXPENDITURE OF THE
VISITING COMMITTEE OF THE ABOVE-MENTIONED LUNATIC
ASYLUM DURING THE YEAR ENDED THE 31ST DAY OF
MARCH, 189 .

Schedule.

PART I.—

RECEIPTS.			
	£	s.	d.
Balance in hand at the commencement of the year, as per Financial Statement to 31st March, 189 .. .. .	..	..	..
Goods sold, namely :—			
Farm and Garden Sales *			
Kitchen Stuff and old Stores			
Sundries			
Sums received on account of the maintenance of—			
(a) Pauper Patients :—			
From Guardians of Unions and Parishes within the entire County at s. d. per head per week			
From Guardians of other Unions and Parishes at s. d. per head per week			
From the Treasurers of the County and contributory Boroughs for Patients adjudged chargeable to such County and Boroughs ..			
From the Treasurer of the Asylums Board under section 269 (9) of the Lunacy Act, 1890, in respect of accommodation at other Asylums, not exceeding one-fourth of the entire weekly charge			
From the Treasurers of non-contributory Counties and Boroughs at s. d. per head per week ..			
From the Treasurers of non-contributory Boroughs and of Counties in respect of non-contributory Boroughs for excess of weekly charge above ordinary rate (30 & 31 Vict. c. 106, s. 23)			
From the Treasurers of other Asylums for Patients received under Contract or arrangement at s. d. per head per week ..			
Other Receipts, if any, viz. :—			
(b.) Private Patients .. .. .	..	..	..
(c.) Criminal Patients :—			
From Parliamentary Vote ..			
From Prison Commissioners for Funeral and Removal Expenses			
From Private Funds of Patients or their Friends			
Funeral and Removal Expenses :—			
From Guardians of Unions and Parishes			
From Treasurers of Counties and Boroughs			
Sums received from the Lancashire Asylums Board and carried to the Maintenance Account, specifying the purpose for which they were paid :—			
Rents .. .. .	..	..	..
Other Receipts, specifying them :—†	..	..	..
TOTAL RECEIPTS	£		
Balance against (if any) at the end of the year, viz. :—	£	s.	d.
TOTAL RECEIPTS AND BALANCES	£		

* This item should agree with the corresponding entry in the Farming and Gardening Account (Part III. of this Statement).

† See note on p. 624, *post*.

MAINTENANCE ACCOUNT.

Schedule.

EXPENDITURE.			£	s.	d.	£	s.	d.	£	s.	d.
Balance against (if any) at the commence- ment of the year, as per Financial Statement to 31st March, 189
Salaries and Wages (not including Pay- ments for Labour appearing in the Farming and Gardening Account, nor comprised in the Building and Repairs Fund Account), namely :—											
Officers						
Attendants and others						
Provisions (including Malt Liquor in ordi- nary Diet)						
Malt Liquor, Wine, and Spirits (not in- cluded in ordinary Diet)						
Farm and Garden Expenses *						
Clothing—											
For Patients						
For Attendants						
Necessaries (including Fuel, Lighting, and Washing)						
Surgery and Dispensary						
Furniture and Bedding						
Funeral and Removal Expenses						
Rates, Tithes, and Taxes						
Payments to Treasurers of other Asylums for Patients under Contract or arrange- ment						
Transfer to the Building and Repairs Fund Account, namely :—											
(a.) Excess of Weekly Charge on "Out- County " Patients											
(b.) Excess of Weekly Charge on Private Patients											
Transfers to the Lancashire Asylums Board, specifying them :—											

Payments to other Local Authorities, speci- fying them :—											

Other Payments, specifying them :—											

TOTAL EXPENDITURE	£					
Balance in hand at the end of the year, viz. :—						£	s.	d.	£	s.	d.

TOTAL EXPENDITURE AND BALANCES	£					

* This item should include all the sums entered as paid in the Farming and Gardening Account (Part III. of this Statement).

Schedule.

PART II.—BUILDING AND

RECEIPTS.	Moneys raised by Asylums Board by means of Loans.		Other Moneys.	
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Balance in hand at the commencement of the year ..	..	..	..	..
Sums received from the Treasurer of the Lancashire Asylums Board on account of—				
Ordinary repairs ..				
Additions, Alterations, and Improvements (not exceeding 400 <i>l.</i>) ..				
New Buildings and Extraordinary Outlay ..				
Pensions ..				
From other Local Authorities, specifying them :—	£ s. d.			

Other Receipts, specifying them :—				

Transfers from the Maintenance Account, namely :—				
(a.) Excess of Weekly Charge on "Out-County" Patients ..				
(b.) Excess of Weekly Charge on Private Patients ..				
TOTAL RECEIPTS	£			
Balance against (if any) at the end of the year				
TOTAL RECEIPTS AND BALANCES ..	£			

SUMMARY OF RECEIPTS IN PARTS I. AND II.

RECEIPTS :—	£ s. d.	£ s. d.
Maintenance Account		
Building and Repairs Fund Account :—		
Money raised by Asylums Board by means of		
Loans		
Other Moneys		
TOTAL	£	
Less Transfers from the Maintenance Account to the Building and Repairs Fund Account		
TOTAL RECEIPTS	£	

REPAIRS FUND ACCOUNT.

Schedule.

EXPENDITURE.	Out of Moneys raised by Asylums Board by means of Loans.		Out of Other Moneys.	
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Balance against (if any) at the commencement of the year	
Sums paid on account of—				
Ordinary Repairs ..				
Additions, Alterations, and Improvements (not exceeding 400 <i>l</i> .) ..				
New Buildings and Ex- traordinary Outlay ..				
Pensions				
Payments to other Local Authorities, specifying them:—				
_____ £ s. d.				
Other Payments, specifying them:—				

TOTAL EXPENDITURE	£			
Balance in hand at the end of the year ..			£	
TOTAL EXPENDITURE AND BALANCES	£		£	

SUMMARY OF EXPENDITURE IN PARTS I. AND II.

EXPENDITURE:—	£ s. d.	£ s. d.
Maintenance Account .. .. .	.. ..
Building and Repairs Fund Account:—		
Out of Moneys raised by Asylums Board by means of Loans		
Out of other Moneys		
TOTAL	£	
Less transfers from the Maintenance Account to the Building and Repairs Fund Account	£ s. d.	
Less Transfers to Lancashire Asylums Board		
TOTAL EXPENDITURE ON WHICH STAMP DUTY IS PAYABLE	£	

Schedule.

PART III.—FARMING AND

RECEIPTS.								
			£	s.	d.	£	s.	d.
Sums received during the year from								
Sales *			
Value of Goods supplied to the Asylum								
during the year, viz. :—								
Beef, Mutton, Pork, &c.								
Poultry and Eggs								
Milk, Butter, and Cheese								
Potatoes and other Vegetables ..								
Other items, viz. :—								
Other Receipts, specifying								
them :—†								
TOTAL RECEIPTS	£		
Value of Stock at the end of the year			
Balance (if any) against Farm and Garden			
TOTAL	£		

* See note * on page 620, *ante*.

† The items included under this heading, if cash receipts, should also be entered under the heading "Other Receipts," in the Maintenance Account (Part I. of this Statement).

I HEREBY CERTIFY that I have compared the entries in this Financial Statement with respect to such Statement have been duly complied with.

I hereby further certify that I have ascertained by Audit the correctness of
 _____ Lunatic Asylum during the year ended the 31st day of March,

‡ Amount to be inserted in words at length.

GARDENING ACCOUNT.

Schedule.

EXPENDITURE.								£ s. d.			£ s. d.		
Value of Stock at the commencement of the year .. .. .								..	..
Sums paid during the year in respect of—													
Labour (not that of Patients)													
Provender													
Seeds and Manures													
Stock, Live and Dead (bought)													
Other Payments, specifying them :—													
								£ s. d.					
TOTAL EXPENDITURE .. .. .								..	..	£
Balance (if any) in favour of Farm and Garden .. .. .								..	..
TOTAL .. .. .								..	..	£

_____ Clerk of Asylum.
_____ day of _____, 189 .

	£ s. d.
TOTAL EXPENDITURE as shown in Summary of Parts I. and II. .. .. .	..
Deduct :—	
AMOUNT DISALLOWED AT AUDIT .. .. .	..
AMOUNT ALLOWED AT AUDIT £	

ment with the Vouchers and other Documents relating thereto, and that the such Statement, and that the expenditure of the Visiting Committee of the 189 , included in such Statement, and allowed by me at the Audit, is £———
As witness my hand this _____ day of _____, 189 .

_____ Stamp. _____ District Auditor.

SCHEDULE.

FORM B.

LANCASHIRE ASYLUMS BOARD.

FINANCIAL STATEMENT.

THE DISTRICT AUDITORS ACT, 1879 (42 VICT. c. 6),

AND

THE LANCASHIRE COUNTY (LUNATIC ASYLUMS AND
OTHER POWERS) ACT, 1891 (54 VICT. c. xx).

STATEMENT OF THE RECEIPTS AND EXPENDITURE OF THE
ABOVE-MENTIONED ASYLUMS BOARD DURING THE YEAR
ENDED THE 31ST DAY OF MARCH, 189 .

Schedule.

ASYLUMS FUND

PART I.—(A.). RECEIPTS AND

RECEIPTS.			
	£ s. d.	£ s. d.	£ s. d.
Balance in hand at the commencement of the year, as per Financial Statement to 31st March, 189 .. .. .	.. .. .	.. .. .
Sums received in pursuance of Precepts, viz. :—			
From the County Council of Lancaster ..			
From the Council of the County Borough of—			
Barrow-in-Furness			
Blackburn			
Bolton			
Bootle			
Burnley			
Bury			
Liverpool			
Manchester			
Oldham			
Preston			
Rochdale			
Saint Helen's			
Salford			
Stockport			
Wigan			
Sums received from Treasurers of Visiting Committees of Asylums :—			
Lancaster Asylum			
Prestwich			
Rainhill			
Whittingham			
Dividends and Interest of Securities in which Sinking Fund was invested			
Sale of Securities in which Sinking Fund was invested			
Other Receipts, specifying them :—			
.....			
.....			
.....			
TOTAL RECEIPTS OTHER THAN FROM LOANS			£
Balance against (if any) at the end of the year, viz. :—	£ s. d.	£ s. d.	
.....			
.....			
TOTAL RECEIPTS OTHER THAN FROM LOANS, AND BALANCES			£

ACCOUNT.

EXPENDITURE OTHER THAN FROM LOANS.

EXPENDITURE.			
	£	s.	d.
Balance against (if any) at the commencement of the year as per Financial Statement to 31st March, 189 .. ..	..	..	..
Sums paid to Treasurers of Visiting Committees of Asylums :—			
Lancaster Asylum			
Prestwich „			
Rainhill „			
Whittingham „			
Salaries, Remuneration, and Superannuation Allowances of Officers and Assistants of Asylums Board			
Establishment Charges *			
In respect of Loans :—	£	s.	d.
Principal repaid { Out of invested Sinking Fund			
{ Otherwise than out of invested Sinking Fund			
Interest (including £ Income Tax) ..			
Invested as Sinking Fund †			
Other Payments, specifying them :—			

TOTAL EXPENDITURE OTHER THAN FROM LOANS	£		
Balance in hand at the end of the year, viz. :—	£	s.	d.

TOTAL EXPENDITURE OTHER THAN FROM LOANS, AND BALANCES	£		

* The cost of stationery, printing, books, postage, advertisements, and rent, rates, taxes, insurance, gas, and fuel in respect of offices, should be entered under this heading.
† Sums uninvested and not applied in repayment of principal are not to be inserted here, but should be included in the Treasurer's balance in hand.

Schedule.

ASYLUMS FUND

PART I.—(B.) RECEIPTS AND

RECEIPTS.							£	s.	d.	£	s.	d.
Balance in hand at the commencement of the												
year				
Receipts from Loans, stating purpose :—*												
TOTAL RECEIPTS FROM LOANS							£		
TOTAL RECEIPTS FROM LOANS, AND												
BALANCE							£

* Re-borrowings should be shown separately.

ACCOUNT.

EXPENDITURE FROM LOANS.

EXPENDITURE.					£	s.	d.	£	s.	d.
Amounts paid to Treasurers of Visiting Committees of Asylums :—										
Lancaster Asylum	..	..	£	s.	d.					
Prestwich	„	..	..	..			
Rainhill	„	..	..	..			
Whittingham	„	..	..	..			
Other Expenditure from Loans, stating purpose :—*										

TOTAL EXPENDITURE FROM LOANS					..	..	£	
Balance in hand at the end of the year, viz. :—										

TOTAL EXPENDITURE FROM LOANS, AND BALANCE					..	..	£	

* Repayments out of borrowed money should be shown separately.

Schedule.

PART II.—

1.	2.	3.	4.	5.	6.	7.
Purpose of Loan.	Total Amount advanced.	When advanced.	For what period.	Rate of Interest.	Mode of Repayment.	Amount of Principal owing at commencement of Year.
	£ s. d.			£ s. d.		£ s. d.
TOTALS£					

GENERAL ORDER OF THE LOCAL GOVERNMENT BOARD.

635

Given under the Seal of Office of the Local Government Board, this Schedule.
twenty-fourth day of March, in the year one thousand eight hundred and
ninety-three.

HENRY H. FOWLER,
President.



L. S.

S. B. PROVIS,
Assistant Secretary.

Rules.

THE RULES IN LUNACY, 1892.

DATED 6TH FEBRUARY, 1892.

Preliminary.

Short title.

1. These rules may be cited as the Rules in Lunacy, 1892.

Power to make Rules.—As to the power under which these rules were made, see section 338 (2) of the Lunacy Act, 1890, *ante*, p. 446, as amended and extended by sections 27 (2), 29, and schedule of the Lunacy Act, 1891, *ante*, p. 487 *seq.*

Construction of Rules.—As to the construction of these rules, see section 31 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, cited in the notes to section 338 (1) of the Lunacy Act, 1890, *ante*, p. 445.

Commencement of rules.

2. These rules shall come into operation on the first of March, 1892, and as from that date the Rules in Lunacy, 1890, and the Orders in Lunacy of the 5th March, 1891, and of August, 1891, shall be annulled.

Commencement.—As to the commencement of these rules, see section 338 (7) of the Lunacy Act, 1890, *ante*, p. 446; section 37 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63; and section 1 (3) of the Rules Publication Act, 1893, 56 & 57 Vict. c. 66.

Pending proceedings.

3. Pending proceedings shall be carried on according to the provisions of these Rules, so far as possible, and subject thereto according to the practice heretofore subsisting, and in case of doubt as to the mode of procedure, in such of those modes as the Masters direct. The provisions of these Rules shall be subject to variation by special order in any case, and shall apply only where no express directions are given by any special order concerning any of the matters provided for in these Rules, or so far as such directions do not extend. In all matters not provided for by these Rules, the mode of procedure heretofore in force shall continue to be followed.

Month means calendar month.

4. Where in any order the time for doing any act or taking any proceeding is limited by months, and where the word "month" occurs in any document which is part of any legal procedure under these Rules, such time shall be computed by calendar months unless otherwise expressed.

Compare definition of "month" in section 3 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, and Rules of the Supreme Court, 1883, O. 64, rule 1.

In legal documents the primary meaning of a month is a lunar month: *Brunner v. Moore*, [1904] 1 Ch. 305.

Exclusion of Sundays, & c.

5. Where any limited time, less than six days from or after any date or event, is appointed or allowed by these Rules, or any order for doing any

act or taking any proceeding, Sunday, Christmas Day, and Good Friday shall not be reckoned in the computation of such limited time. Rules.

Compare Rules of the Supreme Court, 1883, O. 64, rule 2.

Where the limited period is not less than six days, Sundays, &c., are counted : *Ex parte Viney* (1877), 4 Ch. D. 794 ; 46 L. J. Bkcy. 80 ; 36 L. T. (N.S.) 43 ; 25 W. R. 364.

As to fractions of a day, see *Clarke v. Bradlaugh* (1881), 8 Q. B. D. 6 ; 51 L. J. Q. B. 1 ; 46 L. T. 49 ; 30 W. R. 53 ; 46 J. P. 278.

6. Where the time for doing any act or taking any proceeding under these Rules or any order expires on a Sunday or other day, on which the offices are closed, and by reason thereof such act or proceeding cannot be done or taken on that day, such act or proceeding shall, so far as regards the time of doing or taking the same, be held to be duly done or taken, if done or taken on the day on which the offices shall next be open. Time expiring on Sunday or close day.

Compare Rules of the Supreme Court, 1883, O. 64, rule 3 ; and see *ex parte Saffery* (1877), 5 Ch. D. 365 ; 46 L. J. Bkcy. 99 ; 36 L. T. (N.S.) 532 ; 25 W. R. 572.

7. In any case, in which any particular number of days, not expressed to be clear days, is prescribed by these Rules, or any order, the same shall be reckoned exclusively of the first day, and inclusively of the last day. Number of days how computed.

Compare Rules of the Supreme Court, 1883, O. 64, rule 12.

This rule and the corresponding rule 7 of the Rules in Lunacy, 1890, are worded differently to O. 4 of the Lunacy Orders, 1883.

8. The Judge in Lunacy (in these rules called the Judge) and the Masters may enlarge or abridge the time appointed by these Rules or fixed by any order enlarging time, for doing any act or taking any proceeding, upon such terms (if any) as the justice of the case requires, and any such enlargement may be ordered, although the application for the same is not made until after the expiration of the time appointed or allowed. Power to enlarge or abridge time.

Compare Rules of the Supreme Court, 1883, O. 64, rule 7.

9. The forms in the schedule may be used in the cases, in which they are applicable, with such variations as the circumstances require. Forms.

Compare section 339 of the Lunacy Act, 1890, *ante*, p. 447.

The Masters.

10. The Masters may make orders as regards administration and management, and they may direct by whom and in what manner the costs of any proceedings are to be paid. Masters to make orders.

By section 27, sub-section 1, of the Lunacy Act, 1891, a Master in Lunacy, when appointing a person under section 128 of the Act of 1890 to exercise a power of appointing new trustees vested in a lunatic, has jurisdiction under section 129, of the Act of 1890, to make an order vesting the trust property in the new trustees : *Re Fuller*, [1900] 2 Ch. 551, but see *Re Langdale*, [1901] 1 Ch. 3, where the jurisdiction is not extended to a case where new trustees, already having been appointed, the property remains vested in the old trustees, one of whom is a lunatic.

The Court in Lunacy has jurisdiction to order an inquiry into the state of mind of a domiciled foreigner temporarily resident in England : *Re Burbidge*, [1902] 1 Ch. 427.

Rules.

Appeal from
orders of
Masters.
Forms 2, 3.

11. Any person affected by any order, decision, or certificate of a Master may appeal therefrom to the Judge without a fresh summons, upon giving notice of appeal within eight days from the date of the order, decision, or certificate complained of, or such further time as may be allowed by the Judge or Master. The notice of appeal shall be given to the persons, if any, interested in supporting the order, decision, or certificate, and a copy thereof shall, within the aforesaid period of eight days, be left at the Masters' office, and the Masters shall thereupon bring the matter before the Judge.

This rule alters the former practice by the substitution of notices for summonses, and by giving an enlarged right of appeal commensurate with the enlarged jurisdiction of the Masters under section 27 (1) of the Lunacy Act, 1891, *ante*.

Masters to
communicate
with and
attend the
Judge.

Attendance
in court.

12. The Masters may communicate personally with the Judge, with regard to any matter pending before them, when any point appearing to them to be novel or difficult arises, and they shall, when requested by the Judge so to do, attend to give any information or assistance he may require.

13. Such one of the Masters or their clerks as the Masters, with the concurrence of the Lord Chancellor, direct shall attend in court upon the hearing of any application, and shall take a note of the order made by the Court.

14. [*Masters to inquire into delay.*]

The whole of this rule was annulled by the Rules in Lunacy, 1893, rule 12 and schedule, *post*. See now rule 2 of those rules, *post*, and notes, p. 668.

Masters may
act jointly
and severally.

15. Wherever the Masters are referred to in these rules, they shall be deemed to be referred to jointly and severally, and everything to be done by or before the Masters may be done by or before them or either of them, but all applications relating to the same person or his property shall, so far as convenient, be dealt with by the same Master.

As to this rule, see section 111 (2) of the Lunacy Act, 1890, *ante*, p. 257.

Mode of Application.

Application
for order for
inquisition.
Form 4.

16. Applications for an order for inquisition, except in cases under section 100 of the Lunacy Act, 1890, shall be made by petition. The petition shall be signed by the petitioner and attested by a solicitor.

Leave to traverse an inquisition is a matter of right, but the judge in lunacy should satisfy himself that the application is *bonâ fide*, and that the alleged lunatic is competent to exercise acts of volition upon the subject: *Re Gilchrist*, [1907] 1 Ch. 1.

Application
for traverse
and super-
sedeas and for
vesting
orders.

Petitions for
inquisition,
traverse, and
supersedeas,
to be brought
before judge.

17. (*Applications for a traverse and for a supersedeas, and applications under that portion of the Lunacy Act, 1890, which relates to "vesting orders," shall also be made by petition.*)

This rule is annulled, see rule 29th October, 1900, *post*, p. 670.

18. Every petition for an order for inquisition, for a traverse, and for a supersedeas, and the evidence in support thereof shall be filed in the Masters' office, and shall be brought before the Judge without previous consideration by the Masters.

19. All other applications under the Lunacy Acts, 1890 and 1891, or under those Acts and also in the Chancery Division, shall, unless the Judge or Masters shall in any particular case otherwise direct, be made by summons at chambers before the Masters. **Rules.** Other applications to be by summons.

20. In all cases, in which the Judge has, under the Lands Clauses Acts, the Settled Estates Act, 1877, the Settled Land Acts, 1882 to 1890, or any other enactment, jurisdiction to make an order upon petition affecting the property of a lunatic, the application for the order shall, unless the Judge or Master in any particular case otherwise directs, be made by summons at chambers before the Masters. Applications under Lands Clauses Acts. Settled Estates Acts, Settled Land Acts, and other Acts.

See now the powers of the Master in Lunacy, under the Lunacy Act, 1908, *ante*, p. 490.

21. If in any case, in which the application is not by these Rules or by the Judge or Masters directed to be made by petition, a petition is presented without the direction of the Judge or Masters, no further costs shall be allowed than would be allowed upon a summons. Costs of petitions not to be allowed.

22. All applications, except those by these Rules directed to be brought before the Judge, without previous consideration by the Masters, shall be considered by the Masters, and, if the application does not relate to administration and management, the Masters shall prepare the minutes of such order, if any, as they think should be made, and shall bring the application with the evidence and the minutes of the proposed order before the Judge. In matters not relating to administration and management Masters to prepare minutes of order for the judge.

23. All matters which require to be brought before the Judge, shall be brought before him out of court. The Judge may make an order upon any summons or petition without attendance of counsel, solicitors, or parties, or after such attendance, or may adjourn the summons or petition into court, or refer the same to the Masters for inquiry, or further inquiry, upon any matter. Any matter may be adjourned from court for consideration by the Judge out of Court. Matters to be brought before judge out of court.

24. The Judge and Masters respectively may direct any person to be served with notice of any application, and may dispense with service on any person. Power to order or dispense with service.

25. Every application by summons to be brought before the Judge shall be brought before him upon the original summons, and until the application is finally disposed of, it shall not be necessary to issue any further summons upon any appointment. Where an application by summons is directed to be served on any party, it shall not be necessary to issue a fresh summons, but the original summons may be served with such amendments (if any) as the circumstances require. Only one summons to be issued on the same application.

The Inquisition.

26. The notice to an alleged lunatic of a petition for an order for inquisition shall be by service on him of a copy of the petition with a notice thereon endorsed signed by the petitioner or a solicitor. Such notice shall be in the Form 5 in the schedule, or to that effect. Notice of petition for inquisition. Form 5.

In the corresponding rule 22 of the Rules in Lunacy, 1890, the words at the end of the first sentence were "his solicitor," not "a solicitor." The alteration is apparently introduced for the purpose of avoiding the difficulty raised

Rules.**NOTE.**

in *Re Summerville* (1885), 31 Ch. D. 160; 55 L. J. Ch. 367; 34 W. R. 185, where it was held that the signature of the London agent of the petitioner's solicitor, expressly as agent, was not sufficient.

As to the order for an inquisition, see section 90 (1) of the Lunacy Act, 1890, *ante*, p. 241.

Notice of
report of
Commis-
sioners.

27. The notice to an alleged lunatic of a report of the Commissioners under section 100 of the Lunacy Act, 1890, shall be in the Form 6 in the schedule, or to that effect.

Report of Commissioners.—As to the report of the Commissioners, see section 100 of the Lunacy Act, 1890, *ante*, p. 246.

Order not to
be made until
seven days
after notice.

28. No order shall be made upon any such petition or report until after the expiration of seven clear days from service upon the alleged lunatic of notice of the petition or report.

Service of
notice.

29. Such notice shall be served on the alleged lunatic by being delivered to him personally, or where personal service cannot be effected or is inexpedient, then by being delivered to some adult inmate at the dwelling-house or usual or last known place of abode of the alleged lunatic within the jurisdiction, and an affidavit of service, stating particularly the time, place, and mode of service, and where there has not been personal service, the grounds of such service not having been made, shall be filed with the Masters.

How demand
of a jury to
be made.
Form 7.

30. An alleged lunatic may either by notice filed with the Masters at any time before the consideration of the petition or report, or by himself, his counsel, or solicitor upon such consideration, demand an inquisition before a jury. A notice demanding a jury shall be signed by the alleged lunatic and attested by a solicitor.

Demand of Jury.—As to the right to demand a jury, see section 90 (2) of the Lunacy Act, 1890, *ante*, p. 241. As to withdrawing the demand, see section 90 (3) of the same Act, *ante*, p. 242.

Proceedings after Inquisition.

Summons for
inquiries after
inquisition
found.

31. Subject to the provisions of these rules as to inquiries respecting the next-of-kin and heir-at-law of a lunatic, the party having the conduct of the proceedings shall, immediately after inquisition found, take out a summons to inquire into the matters following:—

- (a.) The lunatic's age, position in life, and residence.
- (b.) The nature of his lunacy.
- (c.) Who are his next-of-kin and heir-at-law.
- (d.) Who ought to be appointed committee of his person and of his estate.
- (e.) Of what his property consists, and the particulars thereof.
- (f.) The amount of his income.
- (g.) In what manner, and at what expense, and by whom, and where, he has been maintained; what should be allowed for his past maintenance; what, if anything, is due, and to whom, in respect thereof, and to whom and out of what fund the same ought to be paid.

- (h.) What should be allowed for future maintenance, when the allowance ought to commence, and out of what fund it should be paid. Rules. —

The husband of a lunatic has no absolute right to be appointed committee of the person : *Re Davy*, [1892] 3 Ch. 38.

32. The Masters may make such order on the summons in the last Masters' preceding rule mentioned as they think expedient. order.

The court may order payment for maintenance out of a fund in court though the effect may be to the prejudice of a creditor who has obtained a charging order on that fund : *Re Plenderleith*, [1893] 3 Ch. 332.

There is no jurisdiction in the Court in Lunacy to order a trustee in bankruptcy to pay into court to the credit of the lunacy, monies in his control or possession, in order to benefit the lunatic's estate : *Re Farnham* (No. 2), [1896] 1 Ch. 836.

Where the property of a lunatic has become subject to the control of the Court in Lunacy, it cannot be seized under a writ of *fi. fa.* by an execution creditor of the lunatic, and as to the rights of such creditor, see *In Re Winkle*, [1894] 2 Ch. 519. See also *Winkle v. Bailey*, [1897] 1 Ch. 123.

Where directions for maintenance should properly be made under section 116 of the Lunacy Act of 1890, and application is made to the Chancery Division for an order for maintenance, see *In re Carr's Trusts*, *Carr v. Carr*, [1904] 1 Ch. 792.

33. The Masters may, when it seems to them expedient, inquire what undisputed debts (if any) are due from the lunatic, and to whom and whether the same or any of them ought to be paid, and out of what property, and they may make orders for the settlement or payment thereof and for the compromise of any disputed claim against the lunatic or his estate. Inquiries as to debts.

There is no jurisdiction to interfere with the rights of creditors, to seize and sell the property of the lunatic which at the time of seizure is not in the custody of the court : *Re Charles Clarke*, [1898] 1 Ch. 336.

As to claim for interest and rate to be allowed on proof of debt in the case of an insolvent estate in lunacy, see *In re Hunt*, *Harvey's Claim*, [1902] 2 Ch. 318.

Where a bachelor lunatic died intestate, leaving a brother, sister and children of a deceased sister, and the deceased sister had received an advance from the lunatic's property under an order of the court in lunacy, such order, with her consent directing that the advance should be taken and considered as a part of any share to which she might become entitled, in the lunatic's estate at the time of his decease in the event of her surviving him, it was held that the deceased sister's children were not bound to bring the advance into hotchpot : *Re Gist*, *Gist v. Trimbrill*, [1906] 2 Ch. 280.

34. The Masters may make such inquiries as they think fit respecting any dealings with the lunatic's estate and the application of the same prior to the date of the inquisition, and respecting the state and condition of the lunatic at the time of each dealings, whether a summons for any such inquiry is pending before them or not. Inquiries as to dealings with lunatic's estate before inquisition.

A vendor of personal estate is entitled to a lien for unpaid purchase money on the property sold, *e.g.* when the property is a share of proceeds of sale of leasehold property held by trustees of a will upon trust for sale and division amongst specified persons. An order in lunacy, authorising a person therein specified, in the name and on the behalf of the lunatic, to receive and give a discharge for sums of money due to him, does not affect rights enforceable against the lunatic's property at law or equity (such as a vendor's lien for unpaid purchase

Rules.**NOTE.**

Inquiries as to property of lunatic out of jurisdiction.

money), previously acquired by third persons. Such an order deals only with the lunatic's equitable interest in his property: *Davies v. Thomas*, [1900] 2 Ch. 462, distinguishing and explaining in *Re Winkle*, [1894] 2 Ch. 519.

35. The Masters may inquire whether any person resident out of the jurisdiction has by the law of the place where such person resides been found or declared a lunatic, and whether his estate or any part thereof has been vested in a curator or other person appointed for the management thereof according to such law, and whether or not any property within the jurisdiction is vested in the lunatic, and what is his interest therein.

British Possession.—By section 110 of the Lunacy Act, 1890, *ante*, the powers of the Judge in Lunacy extend to any property within any British possession.

Transfer of Stock.—As to the power to order a transfer of stock standing in the name of a lunatic out of the jurisdiction, see section 134 of the Lunacy Act, 1890, *ante*, p. 287.

Irish Lunatics.—As to persons found lunatic in Ireland, see section 107 of the Lunacy Act, 1890, *ante*, p. 249.

A foreign curator of the property and person of a lunatic resident out of the jurisdiction is not entitled as of right to the transfer to him of English stocks or shares, standing in the name of the lunatic, although “vested” in the curator under section 134 of the Lunacy Act of 1890. The court has under that section (and its general jurisdiction in lunacy) over the personal property of a lunatic, a discretion as to making or refusing the order and the curator must satisfy the court by evidence that the property is required for maintenance or other purposes of the lunatic: *Re Knight*, [1898] 1 Ch. 257; compare *Re Browne*, [1894] 3 Ch. 412.

No inquiry as to next-of-kin and heir if fees not payable.

36. Where an order is made exempting the property of a lunatic from payment of fees, the Masters shall not, during the continuance of the exemption, inquire respecting his next-of-kin and heir-at-law, unless they think it expedient.

Masters may defer and limit and dispense with inquiry as to next-of-kin and heir.

37. The Masters may in any case defer an inquiry respecting next-of-kin and heir-at-law, or carry on the inquiry to such limited extent only and under such restrictions as they think expedient, and they may direct that persons claiming to be next-of-kin or heir-at-law be left to make out their claim at their own expense, and may in any case, if they think it expedient, wholly dispense with the inquiry.

Strict proof of pedigree may be dispensed with.

38. Where the Masters are of opinion that it is expedient that strict proof of pedigree should not be gone into, they may dispense with the same to such extent and in such manner as they think fit, and may require and receive such evidence as they think sufficient respecting the family and next-of-kin or heir-at-law.

Power to dispense with or disallow attendance of heir or next-of-kin.

39. The Masters may dispense with and disallow the attendance on the proceedings of the heir-at-law or of all or any of the next-of-kin, either wholly or except at their own expense, or except upon special leave first obtained, and such notice only of attending the proceedings shall be given as the Masters shall direct.

Masters to determine who is to attend the proceedings.

40. Subject to the provisions of these rules, the Masters shall once in the matter of each lunatic so found by inquisition, and may as often as they think it expedient, determine which, if any, of the next-of-kin, and what other persons, if any, are to attend the proceedings or any particular proceeding, and only those persons (if any) to whom the Masters have given

leave to attend, shall be entitled to notice of or be allowed to attend on any proceeding at the cost of the estate, except by special leave first obtained.

Rules.
—

Next-of-kin.—The principle which leads the court to call for the next-of-kin and the heir-at-law of lunatics is to receive from the persons probably entitled that assistance in the protection of the property which persons having such expectant rights will be likely to afford: *Ex parte Clarke* (1822), Jac. 595. See also *Ex parte Whitbread* (1816), 2 Mer. 99.

Other Persons.—Natural children may be allowed to attend: *Re Webb* (1846), 2 Phill. 116, but not usually strangers in blood though interested in the lunatic's property: *Re Webb* (1846), 2 Phill. 10; *Re Scarlett* (1873), L. R. 8 Ch. 739; 29 L. T. (N.S.) 232; 21 W. R. 717. In case of idiocy or illegitimacy, the Attorney-General should have notice: *Ex parte Watson* (1821), Jac. 161; *Re Early* (1837), 2 Coop. temp Cott. 107 n. But the Attorney-General of the Duchy of Lancaster need not also attend where the lunatic has property held of the Duchy: *Re Kershaw* (1882), 21 Ch. D. 613; 48 L. T. 51; 31 W. R. 130.

41. Where an infant being one of the next-of-kin, has no guardian, the Masters may appoint a proper person to be his guardian for the purposes of the lunacy, and the person so appointed shall have the same powers, authorities, and discretion as a guardian *ad litem* appointed by the Chancery Division of the High Court. The Masters may revoke any such appointment and appoint another person to be guardian. Power to appoint guardian of infant.

42. The Masters, if it seem to them expedient, may consolidate and carry on together similar proceedings before them in the matters of several persons being members of the same family, and may in any case use in the matter of one member of a family evidence filed in the matter of any other member of the same family. Power to consolidate matters and to use evidence in other matters.

In a case where two sisters, not so found by inquisition, were detained in one asylum, and their sister applied to be appointed as receiver to their estates, she took out two summonses in similar terms founded upon evidence previously filed. The evidence consisted of affidavits practically in duplicate on all points, save those of the medical attendant. Costs were allowed only as if one set of affidavits, and one undertaking, had been filed in the two matters, it being held that while two summonses were required, duplicate evidence was unnecessary: *Re Jane Morris & Mary Morris*, [1912] 1 Ch. 730.

43. The Masters may direct, that several parties, appearing before them by different solicitors, shall appear by the same solicitor, or that several parties, appearing before them by the same solicitor, shall appear by different solicitors. Where parties, directed to appear by the same solicitor, cannot agree upon the solicitor to represent them, the Masters may nominate the solicitor; and if any of such parties insists upon appearing by a different solicitor he shall do so at his own cost. Power to determine what solicitors are to represent the parties.

44. The Masters may receive any deed or security belonging to a lunatic, and may by order or certificate give liberty for payment or transfer into court of any money or stock belonging to a lunatic. Power to receive deeds and direct lodgment of securities.

Inspection of Documents.—All persons producing *prima facie* evidence of an interest in documents deposited in the custody of the Masters (except wills) are entitled to an order for inspection: *Re Wood* (1863), 33 L. J. Ch. 334; 9 L. T. (N.S.) 698; 12 W. R. 293; 10 Jur. 60; *Re Smyth* (1881), 16 Ch. D. 673; 29 W. R. 585. But no order for inspection of such documents can be made on

- Rules.** the committee because they are not in his possession or control: *Vivian v. Iittle* (1883), 11 Q. B. D. 370; 52 L. J. Q. B. 771; 48 L. T. 793; 31 W. R. 891.
- NOTE.** The right to inspect an affidavit includes the right to inspect the exhibits referred to therein though not filed therewith: *Re Hinchliffe*, 43 W. R. 82.

Liberty to deposit will of lunatic with Masters. 45. Any person, in whose custody or control any testamentary paper of the lunatic is, shall be at liberty to deposit the same in the office of the Masters upon oath, as they may direct, there to remain for safe custody.

As to opening the will on the death of the lunatic, see rule 47, *infra*.

On death of lunatic funds in court and effects deposited with Masters to be paid and delivered. 46. On the death of a lunatic or a *supersedeas* being issued, the Masters may make an order for payment, transfer, or delivery of any funds in court belonging to the lunatic or any documents or effects relating to or forming part of his estate, deposited in their office for safe custody, to the person entitled thereto.

The executor of a deceased lunatic asked for an order on the committee of the estate to deliver up certain documents relating to the estate before the final discharge of the committee. Held, that the application was premature: *Re Hinchliffe*, 43 W. R. 82.

On death of lunatic Masters may open will. 47. The Masters may, on being satisfied of a lunatic's death, open and read any document deposited with them purporting or alleged to contain any testamentary disposition made by him, for the purpose of ascertaining who is therein nominated executor thereof, and whether any direction is contained therein concerning his funeral or place of interment, and may deliver the document to the proper officer of the Probate Division to be dealt with according to law.

An order may be necessary if anything more than the mere ministerial action of the Master is required: *Re Townsend* (1852), 21 L. J. Ch. 747.

Applications as to Property of Persons of Unsound Mind not so found by Inquisition.

Notice of applications as to property of person of unsound mind not so found by inquisition. Form 8. 48. In the case of applications respecting the property of any person of unsound mind not so found by inquisition, seven clear days' notice of the application shall be given to such person by service on him of a copy of the summons with a notice indorsed thereon signed by the applicant or a solicitor. Such notice shall be in the Form 8 in the Schedule, or to that effect, and shall be served in the manner in which under these rules notice of a petition for an order for inquisition is to be served. The summons shall be returnable not less than seven clear days from its date.

The application must be made by summons, R. 19, *ante*, p. 639.

Signature of Notice.—The notice may now be signed by "a" solicitor, not necessarily by the applicant's solicitor, thus making the London agent's signature now sufficient. See *Re Summerville* (1885), 31 Ch. D. 160; 55 L. J. Ch. 367.

Affidavit of service to be filed. 49. An affidavit of service stating particularly the time, place, and mode of service, and, where there has not been personal service, the grounds of such service not having been made, shall be filed with the Masters.

50. The person so served may file a notice of objection to the application. **Rules.**

51. The Masters may, if they think fit, dispense with notice to such person of any application after the first. **Notice of objection. Form 9.**

52. For the purpose of any application before the Masters relating to the property of a person not found lunatic by inquisition, the Masters may, if they think fit, visit such person or require him to be produced before them as they direct. **Power to dispense with notice. Masters may visit persons to whom any application relates.**

This rule differs from the corresponding previous rules in substituting "application" for "inquiry" since the Masters now have jurisdiction to make orders as to management and administration under section 27 (1) of the Lunacy Act, 1891, *ante*.

53. The Masters may, if they deem it expedient, direct, that notice of the application be given to any of the next-of-kin of the person, to whom the application relates, or to any other person, and only such persons as the Masters direct to be served with notice shall be entitled to attend before them. **Notice of application to next-of-kin or others.**

The next friend of a person of unsound mind cannot be ordered to file an affidavit of documents under O. 31, rule 12 : *Pink v. Sharwood*, [1913] 2 Ch. 286 ; 82 L. J. Ch. 542 ; 108 L. T. 1017 ; [1913] W. N. 211 ; 57 S. J. 663.

54. In any case, where, pending the appointment of a person to exercise in relation to the property of a person of unsound mind not so found by inquisition any of the powers of a committee of the estate, it appears to the Masters desirable, that temporary provision should be made for the expenses of the maintenance, or other necessary purposes or requirements of the lunatic, or any member of his family, out of any cash or available securities belonging to him in the hands of his bankers or of any other person, the Masters shall be at liberty by certificate to authorise such banker or other person to pay to the person to be named in such certificate such sum as they certify to be proper, and may by such certificate give any directions as to the proper application thereof by that person, who shall be accountable for the same as the Masters direct. **Temporary provision for maintenance.**

55. In all cases not otherwise herein specially provided for, the provisions of these Rules relating to lunatics so found by inquisition and the other general provisions of these Rules shall apply to applications relating to the property of persons of unsound mind not so found by inquisition. . . . **Provisions as to lunatics so found by inquisition to apply.**

The remainder of this rule was annulled by the Rules in Lunacy, 1893, rule 12, and schedule, *post*, p. 669.

Applications as to Persons mentioned in section 116 (1) (d) of the Lunacy Act not being a Lunatic.

56. The provisions of these Rules as to persons of unsound mind not so found by inquisition shall apply to applications respecting the property of any person who though not a lunatic is through mental infirmity arising from disease or age incapable of managing his affairs. **Applications as to persons incapable through disease or age of managing their affairs. Forms 10, 11.**

Rules.

Application
for the
appointment
of new
trustees or
for vesting
orders.

* 57. Applications under that portion of the Lunacy Act, 1890, which relates "to vesting orders" may be made—

- (a.) Where the application is for the appointment of new trustees, or relates to property subject to a trust, by any person beneficially interested in the property, whether under disability or not, or by any duly appointed trustee thereof.
- (b.) Where the application relates to any property subject to a mortgage, by any person beneficially interested in the equity of redemption or in the mortgage money whether under disability or not.

Compare section 36 of the Trustee Act, 1893, 56 & 57 Vict. c. 53. And as to vesting orders generally, see sections 133—143 of the Lunacy Act, 1890, *ante*, pp. 286—296.

Who may apply.—Persons beneficially interested in property subject to a trust include a purchaser of property sold under direction of the court (*Ayles v. Cox*, 17 Beav. 584; *Rowley v. Adams*, 14 Beav. 130), and plaintiffs in an administration action (*Re Wragg*, 1 De G. J. & S. 356), and a person having a contingent beneficial interest (*Re Sheppard's Trusts*, 1 N. R. 76; 8 Jur. (N.S.) 711). The committee of a lunatic trustee may apply on behalf of the lunatic (*Re Wheeler*, 1 De G. M. & G. 436; 21 L. J. Ch. 759). So also, as it seems, the committee of a lunatic *cestui que trust*, but not on his own behalf: *Re Bourke*, 2 De G. J. & S. 426.

With regard to property subject to a mortgage, the committee of a lunatic mortgagee may apply (*Re Stuart*, 4 De G. & J. 319; *Re Biddle*, 23 L. J. 23; 22 L. T. (N.S.) 19; 2 W. R. 50; *Re Thomas's Trusts*, 15 Jur. 187; *Re Wheeler*, 1 De G. M. & G. 436; 21 L. J. Ch. 759). But in default of the committee the mortgagor may apply.

Title of
application.
Form 1 (f).

(a) 58. The application shall be intitled in the matter of the trust or mortgage, and of the particular lunacy, and in the matter of the Lunacy Act, 1890.

Persons to
be served.

(a) 59. The applicant shall serve any such application upon the person or persons, who, according to the practice of the Chancery Division of the High Court, would be required or entitled to be served in similar cases.

Orders and Certificates.

Masters to
have an
official seal.

60. The Masters shall be provided with an official stamp or seal for the authentication of orders, [*certificates*], and other documents, and of amendments therein.

The word "certificates" in this rule was annulled by the Rules in Lunacy, 1893, rule 12, and schedule, *post*, p. 669.

As to the authentication of orders and other documents, see rule 6 of those Rules, *post*, p. 668.

* See Lunacy Act, 1911, section 1, *ante*, p. 492, and Rule of Supreme Court, dated 2nd February, 1912, *post*, p. 671, by which the procedure relating to vesting orders under the Trustee Act, 1893, shall, *mutatis mutandis*, apply to applications for Vesting Orders by virtue of the Lunacy Act, 1890, and the Lunacy Act, 1911.

61. Orders made under the Lunacy Acts, 1890 and 1891, shall be drawn up by the Masters, and shall be entered [*by them*] in a proper book to be provided for that purpose.

Rules.
Orders to be entered by Masters.

The words "by them" in this rule were annulled by the Rules in Lunacy, 1893, rule 12, and schedule, *post*, p. 669.

62. [*Certificates of Masters.*]

The whole of this rule was annulled by the Rules in Lunacy, 1893, rule 12, and schedule, *post*, p. 669.

63. [*Certificates and orders to be prepared without attendances.*]

The whole of this rule was annulled by the Rules in Lunacy, 1893, rule 12, and schedule, *post*, p. 669.

64. [*Settlement of certificates.*]

The whole of this rule was annulled by the Rules in Lunacy, 1893, rule 12, and schedule, *post*, p. 669.

65. [*Certificates to be binding unless altered on appeal.*]

The whole of this rule was annulled by the Rules in Lunacy, 1893, rule 12, and schedule, *post*, p. 669.

66. In orders, [*certificates*], and other documents issued from or brought into the office of the Masters, numbers shall be denoted by figures, and not by words.

Numbers to be denoted by figures.

The word "certificates" in this rule was annulled by the Rules in Lunacy, 1893, rule 12, and schedule, *post*, p. 669.

67. The Masters may, if they think fit, direct that any money securities, or effects in court shall not be paid or transferred out without notice to such person as occasion requires and they direct.

Notice of dealings with funds in court.

68. Clerical mistakes in orders [or other documents] or errors arising therein from any accidental slip or omission, may at any time be corrected by the Judge, or by a Master.

Clerical mistakes and accidental omissions.

The words "or other documents" were substituted for the words "and certificates" in this rule by the Rules in Lunacy, 1893, rule 7, *post*, p. 668.

Committees of the Estate and Person.

69. Where it appears, that several persons ought to be appointed committees of the estate or person, and that it is expedient, that one or more of such persons should continue to act after the death or discharge of the others or other of them, the order appointing the committees may direct that the custody of the estate or person shall continue to the surviving or continuing committees or committee.

Custody of estate or person may be continued to surviving or continuing Committees.

The necessity for this rule appears from the decision in *ex parte Lyne* (1735), Ca. t. Talbot, 143; 2 Eq. Cas. Abr. 583.

70. The Masters shall approve the security to be given by the committee of the estate. Such security may be reduced on request to an amount corresponding in the judgment of the Masters with the condition of the property of the lunatic and the income thereof. The Masters may also

Masters to approve security.

Rules.

Money or stock may be brought into court as security.

Upon fresh security being given previous security discharged.

Committee of estate to pass accounts.

Masters to keep a register of Committees and Receivers.

Committee to satisfy Masters that sureties are living and solvent.

require the security of the committee of the estate to be increased, if in their judgment the circumstances of the case render it desirable.

71. The Masters may authorise the committee of the estate to give security in the whole or in part by bringing into court a sufficient sum of money or stock, and they may for that purpose by order give liberty for payment or transfer into court of any money or stock, and direct how the money is to be invested and the dividends applied, and the Paymaster-General shall give effect to every such order.

72. Where a committee enters into a fresh security, upon the same being duly perfected, and upon the balance then due by the committee being paid or secured to the satisfaction of the Masters, the former security shall be discharged.

73. The committee of the estate shall annually, or at such longer or shorter periods as the Masters fix, deliver his accounts or affidavit in lieu of accounts into the Masters' office, and attend before the Masters at or within such time as the Masters fix, and have his accounts taken and passed, and the Masters shall make to him all just allowances, including an allowance of his reasonable and proper costs, charges, and expenses of passing the account, and those of the next-of-kin, and other persons (if any) allowed to attend on the passing of the account, at the cost of the estate.

74. The Masters shall keep a book or books, in which shall be made, in respect of every committee, receiver, or other person liable to account, entries showing in a tabular form the following particulars, that is to say :—

- (1.) The title of the matter.
- (2.) The names of the committees, receivers, or other persons liable to account.
- (3.) The date fixed for the delivery of accounts or of affidavits in lieu of accounts.
- (4.) The date in each successive year when the accounts or affidavits are delivered into the Masters' office.
- (5.) The date in each successive year when the accounts are passed.
- (6.) The balance or sum, if any, in each successive year directed to be paid into court by the committee, receiver, or other person liable to account.
- (7.) The date fixed for the last-mentioned payment.
- (8.) The date of the actual payment into court.
- (9.) The dates of all orders made in the particular matter, and also such other particulars as the Lord Chancellor may from time to time by writing direct.

75. The committee of the estate shall, on each occasion of passing his account, and also whenever the Masters so require, satisfy the Masters that his sureties are living, and that neither of them has been adjudicated bankrupt or compounded with his creditors, and in default thereof the Masters shall require him to enter into fresh security within such time as they fix.

The proceedings as to entering into fresh security, after proof of the bankruptcy or insolvency of the surety, are the same as on an original appointment of a committee.

76. The balances certified by the Masters to be due from the committee of the estate on passing his accounts, or so much thereof respectively as the Masters certify to be proper to be paid by him, shall, unless the Masters otherwise direct, be paid by him, at or within such time as the Masters fix, into court, to the credit of the matter, and the same, when paid in, and any sum of cash in court to which the lunatic is entitled, or so much thereof respectively as the Masters by their certificate direct, shall, unless the Masters otherwise direct, within such time (if any) as the Masters fix, be laid out in the purchase of such securities for the time being authorised for the investment of cash under the control of the High Court, as the Masters direct, and the dividends on the securities so purchased and all accumulations of dividends shall, unless the Masters otherwise direct, when the same amount to a competent sum, be laid out in like manner without any request for the purpose.

Rules.

Balances of Committee to be paid into court and invested.

77. [*Mode of allowance of account.*]

The whole of this rule was annulled by the Rules in Lunacy, 1893, rule 12, and schedule, *post*, p. 669. See now rule 8 of those rules, *post*, p. 669.

78. Where the committee of the estate makes default in bringing in his account, or in having the same passed, or in paying the balance certified to be due from him, or in causing the same or any sum of cash in court to be laid out, paid, or received, pursuant to any certificate or direction in that behalf, the Masters shall, unless good cause be shown to them to the contrary, not only disallow his salary or remuneration (if any), but shall also charge him with interest at the rate of 4*l.* per cent. per annum upon any balance or cash for the time during which the same appears to have been improperly retained in hand or uninvested.

If balances retained Committee to be disallowed salary and to be charged with interest.

79. The Masters shall, in each of the following cases, inquire whether or not it is expedient that a committee or a new committee of the person or of the estate should be appointed, that is to say ;—

Masters to inquire in certain cases whether a new Committee should be appointed.

- (a.) On default of a person approved to be committee of the estate in duly perfecting his security or in duly perfecting a fresh security when required by the Masters.
- (b.) On the death or discharge of a committee, or one of several committees, where the custody does not survive.
- (c.) If a receiving order in bankruptcy is made against a committee or he compounds with his creditors.
- (d.) If a committee absconds or goes to reside permanently abroad.

As to order for payment of dividends to new committee, see *Re Ryder*, 37 Ch. D. 595.

80. If it appears that a committee or a new committee ought to be appointed in any of the cases mentioned in the last preceding rule, the Masters may make an order appointing a proper person to be such committee or new committee accordingly.

Appointment of new Committee.

81. Upon the discharge or death of the committee of the estate or upon the issue of a *supersedeas* or the death of the lunatic, the Masters shall take and pass the account of the committee from his appointment or from the foot of his last account. If a balance is certified to be due from the committee or his estate, he or his legal personal representative shall pay the

Accounts to be passed on discharge or death of Committee or after *supersedeas*.

Rules.

same into court by virtue of the certificate or otherwise within such time as the Masters direct, or in the case of a *supersedeas* shall pay the same to the person whose lunacy has been superseded, or in the case of the death of the lunatic shall pay the same to the legal personal representatives of the lunatic. If the Masters find a balance due to the committee or his estate, the same shall be paid to him or his legal personal representatives by the new committee out of the lunatic's estate, or in the case of a *supersedeas* by the person whose lunacy has been superseded, or in the case of the death of the lunatic by his legal personal representatives. Upon payment of the balance, if any, or if no balance is found due or the taking of the account is not required, and may in the opinion of the Masters be properly dispensed with, the security of the committee shall be discharged.

Upon the taking of the final account, the proceedings are the same as on an ordinary taking of account, except that in the case of the death of the lunatic or of the committee, the legal personal representatives should attend either in person or by solicitor, in addition to the other persons entitled to attend, and should produce probate or letters of administration.

The committee and receiver of the estate is not accountable in the lunacy, in his character of committee or receiver, for rents and profits received after the lunatic's death: *Re Walker*, C. A., [1907] W. N. 123; [1907] 2 Ch. 120.

The death of a lunatic determines the jurisdiction in lunacy, and moneys in the hands of administrators are not payable under the orders in lunacy, but form part of the corpus of the deceased's estate: *Re Bennett, Greenwood v. Bennett*, [1913] 2 Ch. 318; 82 L. J. (CH.) 506; 109 L. T. 302.

82. [*Procedure where security of committee or receiver is to be discharged.*]

The whole of this rule was annulled by the Rules in Lunacy, 1893, rule 12, and schedule, *post*, p. 669. See now rule 9 of these rules, *post*, p. 669.

*Receivers.*Appointment
of Receiver.

83. A receiver may be appointed in any case, in which such appointment shall be deemed expedient. Where a receiver is appointed, the person appointed shall, unless otherwise ordered, first give security to be allowed by the Masters duly to account, for what he shall receive as such receiver, and to pay the same as the Masters direct, and the person so appointed shall, unless otherwise ordered, be allowed by the Masters a proper salary or allowance.

This rule differs from rule 83 of the Rules in Lunacy, 1890, in not limiting the power of appointment to the Judge in Lunacy or only to cases of lunatics so found. It has been held, that not only may a Master under this rule appoint a receiver, but also that under this rule and rule 56, *ante*, a Master may appoint a receiver of dividends of stock belonging to a person not a lunatic, but through mental infirmity arising from disease or age incapable of managing his affairs, without ordering a transfer of the stock into court: *Re Browne*, [1894] 3 Ch. 412; 63 L. J. Ch. 729; 43 W. R. 175.

Security.—The security of a receiver is by recognizance entered into with two sureties before the Master (see rule 86, *post*, p. 651). As to vacating the recognizance, see rule 9 of the Rules in Lunacy, 1893, *post*, p. 669.

Receiver pending Inquisition.—An *interim* receiver may be appointed pending application for inquisition: *Re Pountain* (1888), 37 Ch. D. 609; 57 L. J. Ch. 465; 59 L. T. 76.

In cases where no person is willing to act, or where the persons willing to act are not considered desirable, the official solicitor should be appointed.

An accounting party will not as a rule be appointed as receiver.

84. The provisions of these Rules respecting the committee of the estate, his accounts, payments, allowances, and matters of the like nature, shall extend, so far as applicable with the necessary modifications, to the case of a receiver.

Rules.

NOTE.

Evidence.

85. The Masters may direct the evidence in any matter or any particular proceedings to be taken orally or partly orally and partly by affidavit.

As to the power of the Masters to administer oaths, take affidavits, and summon witnesses, see section 114 of the Lunacy Act, 1890, *ante*.

By section 3 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, "affidavit" includes "declaration."

Foreign affidavits must either be filed or made exhibits: *Ex parte Hewitson*, 1 W. R. 58. See also section 3 of the Commissioners for Oaths Act, 1889, 52 & 53 Vict. c. 10, and Rules of the Supreme Court, O. 38, rule 6.

86. The Masters may administer oaths to any witness, whether his deposition or affidavit is to be used before themselves or not, and recognizances may be taken and acknowledged before them.

By section 3 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, "oath" includes "affirmation."

See generally also notes to preceding rule; and as to vacating recognizances, see rule 9 of the Rules in Lunacy, 1893, *post*, p. 669.

87. The Masters may cause to be issued such advertisements, as seem to them expedient, with reference to any application before them.

88. Every person, who has made an affidavit to be used on any proceeding, shall be liable to cross-examination, by or before the Masters, and after cross-examination may be re-examined.

89. Every affidavit shall be drawn up in the first person, and shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and as nearly as may be shall be confined to a distinct portion of the subject. Every affidavit shall be written or printed bookwise. No costs shall be allowed for any affidavit or part of an affidavit substantially departing from this rule.

Compare rules of the Supreme Court, O. 38, rule 7.

90. In every affidavit, made by two or more deponents, the names of the several persons making the affidavit, shall be inserted in the jurat, except that, if the affidavit of all the deponents is taken at one time by the same officer, it shall be sufficient to state that it was sworn by both (or all) of the "above-named" deponents.

Compare Rules of the Supreme Court, O. 38, rule 9.

Evidence may be taken orally or by affidavit.

Masters may administer oaths and take recognizances.

Masters may issue advertisements.

Persons making affidavits may be cross-examined. Form of affidavits.

Affidavits by two or more deponents.

Rules.

Description
and abode of
deponent to
be stated.

Consent of
new trustee
to act.
Form 12.

91. Every affidavit shall state the description and true place of abode of the deponent.

Compare rules of the Supreme Court, O. 38, rule 8.

92. The consent of a new trustee to act shall be sufficiently evidenced by a written consent signed by him and verified by a solicitor.

Compare Rules of the Supreme Court, O. 38, rule 19A. See *Re Wilson* (1886), 31 Ch. D. 522; 55 L. J. Ch. 632; 54 L. T. 263. *Re Hume* (1887), 35 Ch. D. 457; 56 L. J. Ch. 1020; 56 L. T. 351; 36 W. R. 84. Note also "a" solicitor, not "his" solicitor, *Re Summerville* (1885), 31 Ch. D. 160; 55 L. J. Ch. 367, cited in the notes to rule 48, *ante*.

Summonses.

Summonses,
how prepared
and issued.
Form 13.

93. Summonses shall be prepared by the parties and sealed by one of the clerks in the Masters' office with the seal of the office, and a copy of the summonses shall be left at the Masters' chambers by the party obtaining the same.

Service and
return of
summons.

94. Subject to the provisions of these rules, a summons before the Masters shall be served at least two clear days before the return thereof, unless the Masters direct the summons to be returnable within a shorter time after service. The summons shall be addressed to all the persons on whom it is to be served.

Further time
for service
may be
allowed.

95. When from any cause a summons before the Masters has not been served upon any party at least two clear days before the return thereof, or within such shorter time as the Masters direct, an endorsement may be made upon the summons, and upon the copy thereof, stamped for service, appointing a new time for the parties not before served to attend, and such endorsements shall be sealed at the Masters' chambers; and the service of the copy so endorsed and sealed shall have the same effect as the service of an original summons; and when any party has been served before such endorsement, the hearing thereof may, upon the return of the summons, be adjourned to the new time so appointed.

Compare *Hastings v. Hurley* (1881), 16 Ch. D. 734; 50 L. J. Ch. 577; 44 L. T. 176; 29 W. R. 440; *Sproat v. Peckett* (1883), 48 L. T. 755; *Shepherd v. Silcock*, W. N. 1886, p. 84.

Failure to
attend on
return of
summons.

96. Where any of the parties summoned to attend the Masters in chambers fail so to attend, whether upon the return of the summons or at any time appointed for the consideration or further consideration of the matter, the Masters may proceed *ex parte* if, considering the nature of the case, they think it expedient so to do.

Compare the first part of the Rules of the Supreme Court, O. 54, rule 5.

Proceeding
ex parte
not to be re-
opened except
upon a special
application.

97. Where the Masters have proceeded *ex parte*, such proceeding shall not in any manner be re-considered in the Masters' chambers, unless the Masters, upon a special application made to them for that purpose by a party who was absent, are satisfied that a re-consideration is necessary or expedient.

Compare Rules of the Supreme Court, O. 54, rule 6.

98. Where matters in respect of which a summons has been issued are not disposed of upon the return of the summons, the parties shall attend from time to time, without further summons, at such time or times as may be appointed for the further consideration of the matter.

Rules.

—
Matters may be further considered from time to time.

Compare Rules of the Supreme Court, O. 54, rule 8.

99. The Masters may, if they think fit, dispense with any summons ordinarily taken out in the course of the proceedings before them, and require any party attending before them to take out a summons for a particular purpose or within a particular time, and fix the time at which any particular summons shall be returnable before them, or at or within which any proceeding necessary or proper to be taken before them shall be taken, and may proceed *de die in diem*, or adjourn the proceedings before them, as they think fit.

Masters may dispense with summons or require summons to be taken out.

The Chancery Visitors.

100. The Masters shall furnish the Chancery Visitors with information as to the custody of the person, the property, and the scheme for the maintenance of each lunatic to be visited by the Chancery Visitors, and as to any change which has taken place in the property or in the custody of the person or the scheme for maintenance.

Masters to supply Chancery Visitors with information.

Chancery Visitors.—As to the appointment of the Chancery Visitors, see sections 163—168 of the Lunacy Act, 1890, *ante*, pp. 307—308, and as to their duties, see sections 183—186 of the same Act, pp. 319—320, *ante*.

101. The Chancery Visitors shall, on each occasion of visiting any lunatic, inquire and examine whether he is maintained in a suitable and proper manner, having regard to the existing scheme for his maintenance, and also whether, having regard to his property, it appears expedient that any and what addition should be made to his comforts, or any and what alterations made in the scheme for or manner of his maintenance.

Chancery Visitors to inquire into maintenance of lunatic.

102. If the Chancery Visitors on such inquiry and examination consider that the lunatic is not maintained in a suitable manner, or that the allowance provided for his maintenance is not duly applied, or that any provision in the scheme for his maintenance, either for his personal comfort or enjoyment, or otherwise, is not duly observed, or that any addition to the comforts or any alteration in the manner of the maintenance of the lunatic should be made which his property is capable of providing, they shall forthwith make a special report, stating their opinion and the grounds thereof to the Board of Visitors.

Chancery Visitors to make special report in certain cases.

Board of Visitors.—As to the Board of Visitors, see section 167 of the Lunacy Act, 1890, *ante*, p. 308.

103. The Board shall thereupon consider the report, and shall, if they think fit, refer the same to the Masters.

Board to consider report.

104. The Masters shall, on any such report as aforesaid being referred to them by the board, investigate the matters thereby reported upon, and may, if they deem it expedient, summon the committee of the person or estate to attend before them, to give explanations thereon, and such orders may be made as the circumstances require, and every such order shall be communicated by memorandum to the visitors.

Masters to investigate matters in report.

- Rules.** 105. The Chancery Visitors shall once at least in every year report to the Lord Chancellor in the case of each lunatic, stating the result of their examination and inquiry as to the maintenance of each lunatic, and shall also in any case in which any special report to the board has been made, state, so far as possible, what steps have been taken in consequence of such special report.
- Annual and other Reports.*—As to these annual and other reports, see sections 185, 186 of the Lunacy Act, 1890, *ante*, p. 320.
- Chancery Visitors to report once a year to the Lord Chancellor. 106. The Masters shall inform the committees of the person upon their appointment of the annual amount allowed for the maintenance of the lunatic, or shall supply them with a copy of the scheme for maintenance, where a scheme has been provided.
- Master to inform Committees of person of allowance for maintenance. The committee may not necessarily be ordered to account in cases where an *annual* sum is ordered to be paid to the committee of the person for the maintenance of the lunatic. See *Re French*, 3 Ch. 317. But where such lunatic has not been maintained for a full year, see *Strangways v. Read*, 1898, 2 Ch. 419.
- Committee of person to report to Visitors as to expenditure. 107. Each committee of the person of a lunatic shall annually or from time to time and as often as may be required of him render to the Board of Visitors an accurate statement in writing of the various sums expended by him, the better to enable the Visitors to ascertain and report, whether the lunatic is being suitably maintained and whether any additional comforts can be provided for him. The Visitors may dispense wholly or partially with the requirements of this rule if in any case they think it desirable to do so.
- Committee of person to report to Visitors as to health of lunatic. 108. Each committee of the person of a lunatic shall half-yearly make a report to the Board of Visitors as to the mental and bodily health of the lunatic. If there is a medical attendant of the lunatic such medical attendant shall either countersign the report of the committee, or shall make a separate report which shall accompany that of the committee or be forwarded direct to the Board of Visitors.
- Power to Visitors to summon Committee of person. 109. The board may summon the committee of the person of the lunatic to attend before them and to give such information in his possession relating to the lunatic as they may require.
- Costs and Taxation of Costs.*
- Rules of Supreme Court as to costs to apply. 110. The Rules of the Supreme Court as to costs for the time being in force shall, subject to these rules, apply to the costs of proceedings under the Lunacy Acts, 1890 and 1891, taken after the commencement of these Rules in any matter.
- Discretion as to Costs.*—As to the discretionary powers of the Judge in Lunacy as to costs, see section 109, *ante*, p. 254.
- Pending proceedings. 111. In proceedings pending at the commencement of these rules, the rules as to costs in Lunacy applicable before the commencement of these rules shall continue to apply.

112. In all cases not otherwise herein specially provided for, solicitors shall be entitled to charge and be allowed the fees they would be entitled to charge and be allowed for work and labour of a similar character transacted in the Chancery Division of the High Court.

Rules.

Solicitors to be allowed same costs as in Chancery Division.

A solicitor, believing his client to be of sound mind, and obtaining an order for her on *ex parte* application, without disclosing the fact that a petition in lunacy was pending against her, is not guilty of such professional misconduct as to make him liable for costs: *Re George Armstrong & Sons*, [1896] 1 Ch. 536.

113. No allowance shall be made for refreshments upon inquisitions.

Refreshments not allowed.

114. Costs of proceedings under the Lunacy Acts, 1890 and 1891, shall be taxed by and under the direction of the Masters. Charges and expenses shall not be allowed, except to committees of the estate or person, unless under special circumstances the Judge or Masters in any case direct them to be allowed.

Costs to be taxed by Masters.

115. Where it is ordered that any costs, or costs, charges, and expenses, be taxed, the Masters shall tax and certify such costs, or costs, charges, and expenses, and shall certify the names of the respective solicitors to whom the same should be paid; and due notice of attending the Masters on the taxation shall be given to such parties as have liberty to attend on the proceedings in the matter; and where it is ordered that the costs, charges, and expenses of any Committee or party in the matter of any application under the Lunacy Acts, 1890 and 1891, be taxed, the Masters, in taxing such costs, charges, and expenses, shall not allow the costs, charges, or expenses of any application upon which no order has been drawn up, or of any evidence in relation thereto, unless they direct the same to be allowed as costs in the matter, and shall not allow the costs, charges, or expenses of or incidental to any application before the Masters which they have refused, unless the Masters are of opinion that such application was proper.

Procedure on taxation.

Construction of and Proceedings under Orders.

116. All orders for the appointment of Committees and for the allowance of maintenance shall be deemed to take effect only until further order.

Certain orders to take effect till further order.

117. Where it is ordered, that a person named be appointed committee of the estate, the order shall be deemed to take effect only on the Masters certifying, that he has given such security as they have approved for answering the estate and accounting for the rents, profits, and produce thereof once in every year, or oftener, if required, before the Masters; and such security shall be perfected at or within such time as the Masters appoint, and until such security has been perfected, the approved committee shall not, unless otherwise ordered, interfere in any manner in the affairs of the lunatic as the committee of his estate or otherwise. The Masters shall inform the Paymaster-General when such security has been perfected.

Order appointing committee to take effect on security being given.

Security.—This rule carries into effect the enactment with regard to the taking effect of orders for the custody of the estate contained in section 108 (2) of the Lunacy Act, 1890, *ante*, p. 252. As to the approval of the security, see rule 70, *ante*, p. 647. As to the kind of security, see rule 71, *ante*, p. 648. As to fresh security, see rule 75, *ante*, p. 648, and as to discharge of the security, see rule 9 of the Rules in Lunacy, 1893, *post*, p. 669.

Rules.

Committee
to account
for money
received.

118. Where it is ordered, that the committee of the estate do receive, or be at liberty to receive, any money on account of the lunatic or his estate, he shall give credit for the same on passing his accounts before the Masters, and where any sum is ordered to be allowed for the maintenance of the lunatic, or to be expended for any other purpose out of his estate, the committee of the estate shall be allowed the amount of the allowance for maintenance or the amount to be expended (as the case may be) on passing his accounts before the Masters.

Passing Accounts.—As to the passing of his accounts by the committee of the estate, see rule 73, *ante*, p. 648.

Allowance for maintenance.—In general the committee of the person is not required to account for maintenance, but may be ordered to do so under special circumstances. *Re French* (1868), L. R. 3 Ch. 317; 37 L. J. Ch. 537; 18 L. T. (N.S.) 139; 16 W. R. 66. See *Re Weld* (1882), 20 Ch. D. 451; 51 L. J. Ch. 913; 46 L. T. 290; 30 W. R. 385.

Payments by
Committee.

119. Where it is ordered, that the committee of the estate do pay any sums of money for maintenance, he shall pay the same out of income, and where it is ordered, that he do pay any costs, he shall, unless otherwise ordered, pay the same, when taxed, out of any moneys coming to his hands, after providing for the maintenance.

Inventory to
be signed.

120. Where it is ordered, that any person be at liberty to retain any furniture or effects of the lunatic, he is to sign an inventory thereof and an undertaking to deliver up the same when required so to do, and such inventory and undertaking shall be deposited in the office of the Masters.

Proper officers
to transfer
stock.

121. Where it is ordered, that a sum of stock standing in the books of the Bank or other public company be transferred into court either generally or on a particular account, and no person is named in the order for making the transfer, the Secretary or Deputy Secretary, Accountant-General, or Deputy Accountant-General for the time being of the Bank or other proper officer of such other company, shall make the transfer, and he, or one of the cashiers for the time being of the Bank, or other such proper officer as aforesaid, shall, if so directed, receive any sum of money standing in the books of the Bank, or such other company as aforesaid accrued due at the date of the order by way of dividend, bonus, or periodical payment in respect of the stock to be transferred, and also any future sum so to accrue due previously to the transfer, and shall pay the same into Court either generally or on such particular account as aforesaid, as the case may require.

This rule is supplementary to section 137 of the Lunacy Act, 1890, *ante*, which only provides for cases where the person to transfer is named in the order.

122. [*How lease to be settled.*]

The whole of this rule was annulled by the Rules in Lunacy, 1893, rule 12, and schedule, *post*, p. 669. See now rule 10 of those rules, *post*, p. 669.

Order to raise
money by
mortgage.

123. Where it is ordered, that the committee be at liberty to raise by mortgage of any part of the lunatic's estate a sum of money for any purpose, the Masters shall settle and approve a proper mortgage, and the committee upon payment to him, or as may be directed, of the amount to be raised, shall in the name and on the behalf of the lunatic execute the mortgage

when so settled and approved, and do all such other acts as are necessary to effectuate the same, and the Committee shall, out of the income of the lunatic's estate, pay and keep down the interest on the mortgage.

Rules.

Power to make Orders.—As to the making of orders for mortgagees of a lunatic's estate, see section 117 of the Lunacy Act, 1890, *ante*, p. 266.

124. Where an order for the sale of a lunatic's real or leasehold estate Orders for sale. is made, the purchaser shall, within such time as the Masters appoint, pay his purchase money into court, or otherwise as the Masters direct, and in case of payment into court to such account, as the Masters appoint, and upon such payment the purchaser shall be let into possession or receipt of the rents and profits as from such day as the Masters appoint, and the committee of the estate shall forthwith in the name and on behalf of the lunatic execute all proper assurances of the property sold to the purchaser or as he directs to be settled by the Masters, and due notice of attending the Masters shall be given to all parties interested.

Powers to make Orders.—As to the making of orders for sale of a lunatic's estate, see sections 117, 120 (a), of the Lunacy Act, 1890, *ante*, pp. 266, 270.

Writs of Execution, &c.

125. All process or writs of execution, attachment or otherwise, requisite Writ of execution to issue out of Central Office. for the enforcement of any order made under the Lunacy Acts, 1890 and 1891, may be issued out of the Central Office of the Supreme Court.

Per centage and Fees.

126. There shall be paid a per centage at the rate of 4 per cent. per Per centage in annum on the clear annual income, amounting to 100*l.* and upwards, of case of lunatics so found by inquisition, but so that no larger sum shall be found by inquisition. payable in any case in any one year than 400*l.*

Power to make Rules.—As to the power to make rules as to per centage and fees, see section 148 (1) of the Lunacy Act, 1890, *ante*, p. 298, and section 27 (3) of the Lunacy Act, 1891, *ante*, p. 487.

Payment and remission.—As to payment and in small cases remission of per centage and fees, see section 148 (2) (3), Lunacy Act, 1890, *ante*, pp. 298, 299.

Stamps.—As to the taking of fees and per centage by means of stamps, see Treasury Order, August 11th, 1892, *post*, p. 671.

127. In the case of lunatics not so found by inquisition and of persons Per centage in other cases. mentioned in section 116 (1.) (d.) of the Lunacy Act, 1890, with respect to whose property orders have been made under which income is from time to time dealt with or made available, there shall be paid a per centage at the rate of 2 per cent. per annum on the clear annual income amounting to 100*l.* and upwards so dealt with or made available, but so that no larger sum shall be payable in any case in any one year than 200*l.* This rule shall apply to all orders made after the commencement of these rules.

128. In calculating per centage payable under these rules sums less than Sums under 10*s.* to be disregarded. ten shillings shall be disregarded, and shall not be levied.

129. The following fees shall be payable in respect of proceedings under the Lunacy Acts, 1890 and 1891 :— Fees.

Rules.*Certificates.*

	£	s.	d.
On every certificate of a Master other than a certificate of a Master respecting per centage	1	0	0

Attendances.

On an application, with or without subpoena, for any officer to attend as a witness or to produce documents (in addition to the reasonable expenses of the officer), for each day or part of a day he shall necessarily be absent from his office.. .. .	1	0	0
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The officer may require a deposit of stamps on account of any further fees, and a deposit of money on account of any further expenses which may probably become payable beyond the amount paid for fees and expenses on the application, and the officer or his clerk taking such deposit shall thereupon make a memorandum thereof on the application.

The officer may also require an undertaking in writing to pay any further fees and expenses which may become payable beyond the amounts so paid and deposited.

Orders.

On every order	2	0	0
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And in addition thereto the following fees, where the clear income of the person to whose property the Order relates amounts to 100*l.* and upwards :

- (a.) On an order authorising a particular lease an amount equal to one-fourth the stamp duty payable on the lease ;
- (b.) On an order authorising a sum of money to be raised by mortgage or charge for every 100*l.* or fraction of 100*l.* of the amount to be raised .. 0 2 0
- (c.) On an order approving or authorising a contract for sale of any property for every 100*l.* or fraction of 100*l.* of the amount of the purchase money 0 2 0
- (d.) On an order authorising a sale by auction where the reserve price is fixed or approved by the Masters for every 100*l.* or fraction of 100*l.* of the amount of the reserve price 0 2 0
- (e.) On an order conferring a general authority to sell or grant leases 10 0 0

Provided that the fees payable under the heads, *a.*, *b.*, *c.*, and *d.*, shall not exceed 10*l.*

Provided also that the fees payable under the heads *a.*, *b.*, *c.*, *d.*, and *e.*, shall not be payable upon any order made while per centage is payable upon the income of the person to whose property the order relates.

*Copies.**Rules.*

On all copies of documents, the actual cost.

130. The fees payable under these Rules shall be paid by means of Impressed stamps. Impressed stamps shall be used, unless for some sufficient reason stamps to be to be approved by the Masters their use be inconvenient. The stamps shall used.
be impressed or affixed on the vellum, parchment, or paper on which the proceeding in respect whereof such stamps are required is written or engrossed, or which may otherwise be used in reference to such proceeding.

See Treasury Order as to payment of fees, 11th August, 1892, *post*, p. 671.

131. Every officer, who receives any document, to which a stamp is Stamp to be affixed, shall immediately upon the receipt of such document cancel or cancelled.
deface the stamp thereon, by writing upon such stamp his name or the initial letters of his name in such a manner as to show clearly and distinctly, that such stamp has been made use of and so that the same may not be again used, and no document bearing an adhesive stamp shall be filed or delivered out until the stamp thereon has been cancelled or defaced in manner aforesaid.

132. In all cases, where adhesive stamps are used, the stamps affixed Limited to the document shall be of an amount corresponding as nearly as is practi- number of cable with the amount of the stamp which such document requires, in adhesive order that no greater number of adhesive stamps may be affixed to any stamps to be used.
document, than is actually necessary.

133. The Master shall certify the amount of per centage payable in each Masters case and the person who is to pay the same, and the time within which the to certify same is to be paid, and such person shall pay the same out of the first amount of money coming to his hands on account of income. per centage.

134. The Masters may, in such cases as they think fit, certify that the Masters whole or any part of the per centage payable on the incomes of lunatics may certify shall be paid out of cash arising from dividends of the lunatic standing to per centage to the credit of the matter of any lunacy either generally or to any particular be paid out of account, and when any such certificate is made, the amount certified thereby dividends.
shall not be paid by means of stamps, but shall be carried over and transferred in manner hereinafter directed.

135. There shall be kept in the Paymaster-General's office an account Lunacy intituled "The Paymaster-General's Lunacy Per Centage Account." Per centage Account.

136. When any such certificate as last hereinbefore mentioned is made, Upon cer- an office copy of such certificate shall be left at the office of the Paymaster- tificate of General, who shall by virtue of such certificate, out of any cash arising Masters dividends to from dividends or interests on money on deposit belonging to the lunatic be carried to standing to the credit of the matter of any lunacy, carry over the amount Per centage mentioned in such certificate from the credit of the account in such certificate Account.
mentioned to the credit of the Lunacy Per Centage Account, and any orders made and to be made in any such matters respectively are to be subject to this rule and to be acted upon accordingly.

137. As soon as conveniently may be after the 31st of January in each Transfer from year, the Paymaster-General shall, by certificate under his hand, direct Per centage the Bank to transfer to his "cash account" at the bank the amount of Account to cash standing on that day to the credit of the Lunacy Per Centage Account, Cash Account.

Rules.

and such certificate shall be a good and sufficient authority to the bank to write off the amount therein mentioned from the Lunacy Per Centage Account, and to carry it to the "Cash Account," without any further order of the court, and upon receiving from the bank a certificate that such transfer has been effected, the amount so transferred shall be placed to the debit of the proper accounts in the books of the Paymaster-General.

Per centage to be paid by stamps.

138. Subject to the provisions hereinbefore contained, the per centage shall be paid by means of stamps, and the Masters shall give notice in writing to the committee of the estate or other proper person of the amount of per centage to be paid by him according to the certificate of the Masters, and of the time within which such amount is to be paid, and the committee or other person shall within such time pay the amount stated in the notice out of income by purchasing stamps to such amount and shall file such notice duly stamped at the office of the Masters.

Per centage may be paid for less than a year.

139. Where it appears to the Masters with a view to the establishment of a uniform period for the payment of per centage or for other purposes to be expedient, they may make in any case a certificate comprising the income of a period greater or less than one year, and stating the amount of per centage payable for such period.

Masters to certify persons in default in paying per centage.

140. The Masters shall once at least in every six months and oftener if they think fit, certify to the Treasury the names of all persons, if any, who are then in default in paying the amount certified to be payable by them in respect of the said per centage and filing the notices duly stamped as hereinbefore provided, with the amounts payable by such parties respectively.

Copies of Documents.

Copies to be made in the Masters' office.

141. The following copies of proceedings and documents shall be made in the Masters' office (that is to say): office copies of affidavits to be made for and taken by the party filing the same; copies of documents prepared in the Masters' office to be made for and taken by the party having the conduct of the proceedings; office copies of all orders, certificates, and other documents, and of all proceedings filed in the Masters' office; and copies of all documents filed in the Masters' office. Copies of all proceedings and documents, except those above mentioned, shall be made, delivered, charged, and paid for according to these Rules.

Request for copies.

142. The party, or his solicitor, requiring any copy, save as hereinbefore excepted, shall make a written request, to be delivered to the party by whom the copy is to be furnished or his solicitor with an undertaking to pay the proper charges. Upon the request being made, with such undertaking as aforesaid, copies of such proceedings or documents shall be made by the party or his solicitor filing or leaving the same, or who, under the last preceding Rule, may have taken office copies thereof.

A report made by a doctor after examining an alleged lunatic, is in the nature of a proof of the evidence which the witness is prepared to give at the hearing and is privileged from inspection: *Re B.* (No. 3), C. A., [1892] 3 Ch. 194.

Documents in the custody of the Court in Lunacy may not be inspected without an order of a Master or Judge in Lunacy.

Inspection of reports, made to the Court by its own medical adviser is never permitted, with the exception that leave may be given in a proper case, pro-

vided that the lunatic is not thereby injured and if he is living ; if he is dead inspection may be allowed if the Court is satisfied of the propriety of the application : *Re Strachan*, C. A., [1895] 1 Ch. 439.

Rules.

NOTE.

Compare Rules of the Supreme Court, O. 66, rule 7 (i).

143. The copies shall be ready to be delivered at the expiration of forty-eight hours after the delivery of such request and undertaking, or within such other time as the Judge in any case directs, and shall be delivered accordingly upon demand and payment of the proper charges.

Time for delivery of copies.

The time is longer than under Rules of the Supreme Court, O. 66, rule 7 (i).

144. The charges for all such copies shall be at the rate of fourpence per folio of 72 words, every figure comprised in a column being counted as one word.

Charge for copies.

145. The folios of all copies shall be numbered consecutively in the margin thereof, and the name and address of the party or solicitor by whom the same are made shall be endorsed thereon, and such party or solicitor shall be answerable for the same being true copies of the originals or of the office copies of the originals of which they respectively purport to be copies, as the case may be.

Folios to be numbered.

Compare Rules of the Supreme Court, O. 66, rule 7 (l) (m).

146. Any party or solicitor, who has taken any office copy under these rules, shall produce the same in court or at the office of the Masters, when required for the purpose of the proceedings, to which the same relates.

Solicitor taking office copy to produce it.

Compare Rules of the Supreme Court, O. 66, rule 7 (g).

147. All office copies and copies to be furnished by parties or their solicitors shall be written on paper of a convenient size, with a sufficient margin, and in a neat and legible manner, similar to that which is usually adopted by law stationers, and in the case of copies to be furnished by parties or their solicitors, unless so written, the parties or solicitors furnishing them shall not be entitled to be paid for the same.

Copies to be on convenient paper and legible.

148. In case any solicitor, who is required to furnish any such copy as aforesaid, either refuses or for two clear days from the time, when the application for such copy has been made, neglects to furnish the same, the person by whom such application has been made shall be at liberty to procure a copy from the office, in which the original document is or has been filed or left in the same way, as if no such application had been made to the solicitor, and in such case no costs shall be due or payable to the solicitor so making default in respect of the copy or copies so applied for.

Default of solicitor to furnish copy.

Compare Rules of the Supreme Court, O. 66, rule 7 (n).

149. The Masters shall not allow any costs in respect of any copy, unless the same appears to them to have been required and to have been made with due care.

Costs of unnecessary copies to be disallowed.

The sixth day of February, 1892.

(Signed)

HALSBURY, C.

Schedule.

FORM 1.

The SCHEDULE referred to in the foregoing Rules.

FORM 1.

TITLE OF PROCEEDINGS.

(a.) *Application as to alleged Lunatic.*

In Lunacy.

In the matter of *A. B.* a person alleged to be of unsound mind.

(b.) *Application as to Lunatic so found by Inquisition.*

In Lunacy.

In the matter of *A. B.* a person of unsound mind.

(c.) *Application as to Lunatic not so found by Inquisition.*

In Lunacy.

In the matter of *A. B.* a person of unsound mind not so found by inquisition.

(d.) *Application in Lunacy and in the Chancery Division.*

In Lunacy

and

In the High Court of Justice,

Chancery Division.

In the matter of *A. B.* a person of unsound mind [*or as the case may be*].

(e.) *Application as to Person through mental infirmity arising through Disease or Age incapable of managing his affairs.*

In the matter of *A. B.*,

and

In the matter of the Acts 53 Vict. c. 5, and 54 & 55 Vict. c. 65.

(f.) *Application for Vesting Order.*

In Lunacy.

In the matter of the trusts of an indenture dated the , and made between

and

In the matter of *A. B.* a person of unsound mind (*or as the case may be*),

and

In the matter of the Lunacy Acts, 1890 and 1891.

FORM 2.

Schedule.

NOTICE OF APPEAL FROM AN ORDER OF A MASTER.

FORM 2.

[Insert the Title of the Proceedings.]

Rule 11.

TAKE NOTICE, that , of , desires to appeal to the Judge from an order of the Master made in this matter dated the [if part only is appealed from add : so far as it directs that].

AND THAT he intends to ask that the said order may be discharged [or varied], and that it may be ordered that .

Dated the day of .
(Signed)

To , Solicitors for ,
and to Messrs. ,
his Solicitors.

FORM 3.

Rule 11.

NOTICE OF APPEAL FROM A CERTIFICATE OF A MASTER.

[Insert the Title of the Proceedings.]

TAKE NOTICE, that , of , intends to appeal from the certificate of the Master made in this matter dated the .

AND THAT he intends to ask that the said certificate may be varied as follows : [state the variation].

And that such consequential directions may be given or corrections and alterations made in the said certificate as may be necessary.

Dated the day of .
(Signed)

To , Solicitors for ,
and to Messrs. ,
his Solicitors.

FORM 4.

Rule 16.

PETITION FOR AN ORDER FOR INQUISITION.

For title see Form 1A.

To the Right Honourable the Lord Chancellor of Great Britain.

The humble petition of C. D., of , in the county of ,
showeth as follows :

1. A. B., now residing at , is now and for years last past has been of unsound mind and incapable of managing himself and his affairs.

2. Your petitioner is the father of the said A. B.

Your petitioner therefore humbly prays that the Masters in Lunacy, or one of them, may be directed to inquire concerning the alleged lunacy of the said A. B.

And your petitioner will ever pray, &c.

(Signed) C. D.

Witness to the signature of the said C. D.,

E. F.,

Solicitor.

Schedule.

FORM 5.

NOTICE TO ALLEGED LUNATIC OF PETITION FOR INQUISITION.

FORM 5.

Rule 26.

“Mr. A. B.

“Take notice that a petition, of which a copy is within written, has been presented to the Lord Chancellor by me (*or by C. D.*, of) (*a*), and that by virtue of and under the same an inquiry may be ordered to take place before one of the Masters in Lunacy as to whether you are or are not of unsound mind and incapable of managing yourself and your affairs, but that you may, in case you think fit, demand that such inquiry may, if ordered, be had before a jury, in which case a notice of such your desire must be signed by you and attested by a solicitor, and filed at the office of the Masters in Lunacy, the Royal Courts of Justice, London, within seven clear days after your receipt of this notice.

“Dated the day of .

“(Signed) C. D.

“(or X. Y., of ,

“Solicitor).”

Rule 27.

FORM 6.

NOTICE TO ALLEGED LUNATIC OF REPORT OF COMMISSIONERS UNDER THE LUNACY ACT, 1890.

“Mr. A. B.

“Take notice that the Commissioners in Lunacy, on the day of made a report to the Lord Chancellor, stating that you are detained or taken charge of as a lunatic, and that they are of opinion that your property is not duly protected (*or that the income of your property is not duly applied for your benefit, or to that effect*): And take notice that such report having been duly filed, an inquiry may thereon be ordered by the Judge in Lunacy to take place before one of the Masters in Lunacy as to whether or not you are of unsound mind and incapable of managing yourself and your affairs, but that in case you think fit to demand that such inquiry if ordered to be held may take place before a jury, a notice thereof must be signed by you and attested by a solicitor, and filed at the office of the Masters in Lunacy, the Royal Courts of Justice, London, within seven days after your receipt of this notice.

“Dated the day of .

“(Signed) X. Y.”

Rule 30.

FORM 7.

NOTICE BY ALLEGED LUNATIC DEMANDING A JURY.

“In the matter of A. B., an alleged lunatic.

“I, the above-named A. B., having been on the day of served with a notice of a petition for an order for an inquiry (*or of the filing*

(*a*) When a demand for a jury has already been filed, from this to the end is to be omitted.

of a report whereon an inquiry may be ordered), whether or not I am of unsound mind and incapable of managing myself and my affairs, do hereby demand that, in the event of such an inquiry as aforesaid being ordered, the same be had before a jury.

"Dated the day of .

"(Signed) A. B."

"Witness,

"W. N., of ,

"Solicitor."

Schedule.

FORM 7.

FORM 8.

Rule 48.

NOTICE TO PERSON OF UNSOUND MIND NOT SO FOUND BY INQUISITION OF
APPLICATION UNDER THE LUNACY ACTS, 1890 AND 1891.

"Mr. A. B.

"Take notice that a summons, of which a copy is within written, was on the day of issued by me (or by C. D., of), and that in pursuance thereof orders may be made on the ground (*state the ground on which the case is brought within section 116 of the Lunacy Act, 1890, e.g., that you are lawfully detained as a lunatic*) for the purpose (*state the purpose, e.g., of rendering your property or the income thereof available for the maintenance or benefit of yourself or of yourself and your family or for carrying on your trade or business*), and that if you intend to object to such orders being made, notice of such objection must be signed by you and attested by a solicitor, and filed at the office of the Masters in Lunacy, the Royal Courts of Justice, London, within seven clear days after your receipt of this notice.

"Dated the day of .

"(Signed) C. D.

"(or) X. Y.,

"Solicitor."

FORM 9.

Rule 50.

NOTICE OF OBJECTION BY PERSON OF UNSOUND MIND NOT SO FOUND BY
INQUISITION TO ORDER UNDER LUNACY ACTS, 1890 AND 1891.

I, A. B., of , having been served with a notice of a summons for an order respecting my property, under the Lunacy Act, 1890, hereby give notice of my intention to object to such order being made.

Dated the day of .

A. B.

Witness,

E. F.,

Solicitor.

Schedule.

FORM 10.

FORM 10. NOTICE TO PERSON THROUGH MENTAL INFIRMITY ARISING FROM DISEASE
Rule 56. OR AGE INCAPABLE OF MANAGING HIS AFFAIRS.

"Mr. A. B.

"Take notice that a summons, of which a copy is within written, was on the day of issued by me (or by C. D., of), and that in pursuance thereof, orders may be made on the ground that you are, through mental infirmity arising from disease [or age], incapable of managing your affairs, for the purpose (*state the purpose, e.g., of rendering your property or the income thereof available for the maintenance or benefit of yourself or of yourself and your family or for carrying on your trade or business*), and that if you intend to object to such orders being made notice of such objection must be signed by you and attested by a solicitor, and filed at Room No. at the Royal Courts of Justice, London, within seven clear days after your receipt of this notice.

"Dated the day of .

"(Signed) C. D.,

"(or) X. Y.,

"Solicitor."

Rule 56.

FORM 11.

NOTICE OF OBJECTION BY PERSON THROUGH MENTAL INFIRMITY ARISING
FROM DISEASE OR AGE INCAPABLE OF MANAGING HIS AFFAIRS.

I, A. B., of , having been served with a notice of a summons for an order respecting my property under the Acts 53 Vict. c. 5, and 54 & 55 Vict. c. 65, hereby give notice of my intention to object to such order being made.

Dated the day of .

A. B.

Witness,

M. N.,

Solicitor.

Rule 92.

FORM 12.

CONSENT TO ACT.

I, A. B., of , hereby consent to act as a trustee of the [*describe the instrument*].

Dated the day of .

(Signed) A. B.

I, C. D., of , Solicitor, hereby certify that the above written signature is the signature of A. B., the person mentioned in the above written consent.

Dated the day of .

(Signed) C. D.

FORM 13.

Schedule.

SUMMONS BEFORE THE MASTERS.

FORM 13.

Rule 93.

For title, see Form 1.

Let all parties concerned attend the Masters in Lunacy in Chambers [or in the case of a person through mental infirmity arising from disease or age incapable of managing his affairs: the Master in Chambers at Room No.], at the Royal Courts of Justice, London, on day, the day of , at o'clock in the noon, on the hearing of an application on the part of [here state on whose behalf the application is made and its object].

Dated the day of , 18 .

This summons was taken out by , of , Solicitor.

To .

RULES IN LUNACY, 1893.

DATED 15TH JUNE, 1893.

Rules.

1. Upon any application under section 116 of the Lunacy Act, 1890, Masters may direct a petition for inquisition to be presented. the Masters may, if they consider it desirable for the care of the person or for the management of the estate or otherwise in the interest of any lunatic or alleged lunatic, direct such person as they think fit to present a petition for an order for inquisition as to the lunatic or alleged lunatic; and if such direction is not complied with within ten days, or such further time as the Masters allow, the Masters may direct such petition to be presented by the official solicitor, and the official solicitor shall present the same accordingly.

Applications under section 116 of the Lunacy Act, 1890, will apparently include all applications as to management and administration whereon the Masters have power to make orders under section 27 (1) of the Lunacy Act, 1891.

2. (1.) If it appears to the Masters that there is undue delay in any matter before them, or if the Masters are otherwise dissatisfied with the conduct of any proceedings, or with the mode in which any order made or direction given by the Masters is being carried out, they may summon before them the party having the conduct of the proceedings, or any other person appearing to be answerable, to explain the delay or other conduct with which they are dissatisfied, and may make such order as the circumstances require; and for the purposes aforesaid the Masters may direct the official solicitor to summon the persons whose attendance is required, and to conduct any proceedings and carry out any directions; and the Masters may, if they think fit, appoint the official solicitor to act as solicitor in such matter in the place of any solicitors previously acting. Powers of Masters in case of undue delay. [R. L., 1892, r. 14.]

Rules.

(2.) An order of the Masters under this Rule shall be subject to appeal to the Judge in accordance with the provisions of Rule 11 of the Rules in Lunacy, 1892.

Costs of
official
solicitor.

3. Any costs incurred by the official solicitor in relation to any proceedings taken by him pursuant to the directions of the Masters shall be paid by such parties or out of such funds as the Masters direct.

Undertaking
to be given
by person ap-
pointed to do
any act or ex-
ercise any
power.

4. Where an order is made by the Masters under that portion of the Lunacy Act, 1890, which relates to management and administration, the Masters shall, unless for special reasons they think fit to dispense therewith, require the person appointed by the order to do any act or exercise any power to give an undertaking to the following effect with such modifications as the circumstances of the case shall require :

UNDERTAKING.

I, A. B., of [insert address and description] undertake to apply all such moneys as I may receive belonging to the said or his [or her] estate, and all moneys which I may receive on his [or her] account in such manner as the Masters in Lunacy shall direct, and to account for such moneys when required ; and further, to give such security for the due application of and accounting for such moneys as may be required by any order of the Masters, and to obtain and send every six months to the Masters a report from a duly qualified medical man as to the mental and bodily condition of the said and further, every six months to give notice in writing to the Masters of the then place of abode of the said and further, to use my best endeavours to produce the said and to allow him [or her] to be visited by any Chancery visitor or other person authorised by the Masters to visit him [or her], and to give such directions as the Masters may require to facilitate such visits.

“ That portion of the Lunacy Act, 1890, which relates to management and administration ” includes sections 116—131 of the Lunacy Act, 1890, *ante*.

Chancery
Visitors
to visit
and report
upon request
of Masters.

5. The Chancery Visitors shall, upon the request of the Masters, visit and report as to any persons with reference to whom or to whose estate an application is pending before or an order has been made by the Masters.

Apparently the reports made will be subject to section 186 of the Lunacy Act, 1890, *ante*, p. 320.

Orders and
documents to
be authenti-
cated by seal.

6. Orders and other documents issued from the Masters' office shall be sufficiently authenticated by the seal of the Masters' office, and it shall not be necessary to sign the same.

As to forging the seal of the Masters' office, see section 147 of the Lunacy Act, 1890, *ante*, p. 297.

Amendment
of Rule 68 of
Rules in
Lunacy, 1892.

7. The words “ other documents ” are hereby substituted in Rule 68 of the Rules in Lunacy, 1892, for the word “ certificates.”

Rule 68 of the Rules in Lunacy, 1892, relates to clerical mistakes and accidental omissions.

8. The Masters' allowance of the account of a committee shall be sufficiently authenticated by the seal of the Masters' office. **Rules.**

This rule now supersedes rule 77 of the Rules in Lunacy, 1892, which is annulled by rule 12 and schedule, *infra*, and p. 670.

Allowance of account to be authenticated by seal.
[R. L., 1892, r. 77.]

9. When the security of a committee of the estate, receiver, or other person is to be discharged, the bond shall be delivered up to be cancelled, or in the case of a recognizance, the proper officer shall, upon a direction from the Masters, attend the Masters, who shall thereupon vacate such recognizance in the usual manner; and in the case of security having been given in the whole or in part by a sum of money or stock being brought into court, the Masters may make an order for the payment or transfer, in such manner as the Masters think proper, of the sum of money or stock, and the dividends thereon.

Discharge of security.
[R. L., 1892, r. 82.]

This rule differs only from rule 82 of the Rules in Lunacy, 1892, in respect of the provision for vacating a recognizance.

10. Where an order is made authorising a lease of a lunatic's property, the Masters shall settle a proper lease in pursuance of the order, and their allowance of the lease when settled shall be sufficiently authenticated by the seal of the Masters' office; and the committee of the estate shall in the name and on behalf of the lunatic execute the lease when allowed, upon the intending lessee executing a counterpart thereof.

Allowance of lease to be authenticated by seal.
[R. L., 1892, r. 122.]

11. Every committee of the person of a lunatic so found by inquisition shall, within three days after any change shall have taken place in the residence of the lunatic, send by post to the office of the Visitors of Lunatics, Royal Courts of Justice, London, notice thereof, with the address of the place to which the lunatic has been removed.

Change of residence.

The lunatic must not be moved out of the jurisdiction without the consent of the Judge in Lunacy.

There is no corresponding duty for a receiver, appointed under section 116 of the Lunacy Act of 1890, *ante*, to notify even the death of a lunatic to the Lord Chancellor's Visitors, in the case of a person not "so found," but in practice it should be done as a matter of convenience to the office of the Lord Chancellor's Visitors.

12. The Rules in Lunacy, 1892, referred to in the schedule hereto, are hereby annulled, to the extent mentioned in the second column thereof.

Repeal of Rules in Lunacy, 1892, in part.
Short title.

13. These Rules may be cited as the Rules in Lunacy, 1893, and shall be read as one with the Rules in Lunacy, 1892, and shall come into operation on the first day of July, 1893.

(Signed) **HERSCHELL, C.**

The 15th day of June, 1893.

Schedule.

THE SCHEDULE.

RULES AND PORTIONS OF THE RULES IN LUNACY, 1892, ANNULLED.

Number of Rule.			Extent of Repeal.
Rule 14	..	..	The whole rule.
Rule 55	..	..	From "except that" to the end of the rule.
Rule 60	..	..	The word "certificates."
Rule 61	..	..	The words "by them."
Rule 62	..	..	The whole rule.
Rule 63	..	..	The whole rule.
Rule 64	..	..	The whole rule.
Rule 65	..	..	The whole rule.
Rule 66	..	..	The word "certificates."
Rule 77	..	..	The whole rule.
Rule 82	..	..	The whole rule.
Rule 122	..	..	The whole rule.

Statutory Rules and Orders, 1900.

No. $\frac{807}{L. 23}$

LUNATIC, ENGLAND.

RULES IN LUNACY.

RULE DATED OCTOBER 29, 1900, MADE BY THE LORD CHANCELLOR UNDER THE LUNACY ACT, 1890.

Rule 17 of the Rules in Lunacy, 1892, is hereby annulled, and the following Rule is substituted therefor:—

(a.) Applications for a traverse and for a supersedeas shall be made by petition.

(b.) Applications under that portion of the Lunacy Act, 1890, which relates to "Vesting Orders" shall be made by summons, unless the judge in Lunacy or a Master directs a petition to be presented.

This Rule shall be read with the Rules in Lunacy, 1892, and shall come into force on the first of November, 1900.

Halsbury, C.

The 29th October, 1900.

Statutory Rules and Orders, 1912.

No. $\frac{81}{L. 1}$

SUPREME COURT, ENGLAND.

PROCEDURE.

RULE OF THE SUPREME COURT, DATED FEBRUARY 2, 1912.

ORDER LV. RULE 13 B.

The procedure relating to vesting orders under the Trustee Act, 1893, shall, *mutatis mutandis*, apply to applications for vesting orders under or by virtue of the Lunacy Act, 1890, and the Lunacy Act, 1911.

Loreburn, C.

Herbert H. Cozens Hardy, M.R.

Samuel T. Evans, P.

R. J. Parker, J.

P. Ogden Lawrence.

Wm. H. Winterbotham.

Dated the 2nd day of February, 1912.

TREASURY ORDER, DATED AUGUST 11, 1892, AS TO THE FEES AND PER CENTAGES, UNDER SECTION 148 OF THE LUNACY ACT, 1890, WHICH ARE REQUIRED TO BE TAKEN FOR LUNACY PROCEEDINGS IN THE HIGH COURT OF JUSTICE AND COURT OF APPEAL BY MEANS OF STAMPS.

WHEREAS, by section 3 of the Public Offices Fees Act, 1879, it is provided that the Treasury may from time to time make, and when made, revoke, alter, and add to regulations for all or any of the following purposes respecting fees in any public office ; that is to say,

(1.) Regulating the manner in which the fees taken in money are to be taken, accounted for, and paid over.

(2.) Determining the use of impressed or adhesive stamps, and the mode of cancellation of adhesive stamps.

(3.) Regulating the use of stamps, and prescribing the application thereof to documents from time to time in use, and requiring documents to be used for the purpose of such stamps.

Provided that any such regulations which may relate to the office of any court of law shall be made with the consent of the Lord Chancellor.

Now we, the undersigned, being two of the Lords of Her Majesty's Treasury, do, with the concurrence of the Lord Chancellor, hereby give notice and order and direct—

That, from and after the date of this Order, in lieu of any regulations on the subject heretofore in force, the whole of the fees and per centages imposed by the rules made under section 148 of the Lunacy Act, 1890, shall be taken in stamps, and that the stamps employed for the purpose shall in all cases, except for the fees payable for copies of documents, be impressed. The stamps for denoting the fees payable for copies of documents shall be either impressed or adhesive. The impressed stamps herein referred to shall be of such a character as the Commissioners of Inland Revenue may, from time to time, adopt for the purpose, whilst the adhesive stamps shall be of the description used for judicature fees generally, such adhesive stamps to be cancelled by the various court or other officers, either by perforation or in such manner as the said Commissioners may from time to time direct.

The official forms, with impressed or adhesive stamps (as the case may be) required in any proceedings under the said Act shall be sold at the Inland Revenue Office, Royal Courts of Justice.

And we do further direct that this Order shall be binding on all courts, officers, and persons whom it may in any way affect.

(Signed) SIDNEY HERBERT,
 HERBERT EUSTACE MAXWELL,
Two of the Lords of Her Majesty's Treasury.

Dated the 11th day of August, 1892.

I concur in this Order,

(Signed) HALSBURY, C.

PART II.

CRIMINAL LUNATICS.

INTRODUCTORY.

THIS Introduction is divided into three parts, the first part Introduct.
dealing with the meaning of the expression “criminal lunatic,”
the second part containing a historical sketch of the statutes
relating to criminal lunatics, and the third part giving a sum-
mary of the statutes now in force with regard to such lunatics.

Definition of Criminal Lunatic.

It may be observed at the outset that the term “criminal lunatic” is one of some ambiguity, and is used to include classes of persons very different from one another.

The definition contained in section 16 of the Criminal Lunatics Statutory
definition.
Act, 1884, 47 & 48 Vict. c. 64, includes the following :—

- (a.) Any person for whose safe custody during Her Majesty’s pleasure Her Majesty or the Admiralty is authorised to give order ; and
- (b.) Any prisoner whom a Secretary of State or the Admiralty has, in pursuance of any Act of Parliament, directed to be removed to an asylum or other place for the reception of lunatics.

But a further analysis may be useful. The legal term Further
definition.
“criminal lunatic” includes—

First. Those who, put upon their trial on some criminal charge, are found guilty, but insane at the time of the act or omission charged.

Secondly. Those who are found insane upon arraignment.

Introduct.

These persons cannot be assumed to be criminals, but as they are liable to be tried on recovering their sanity, their detention differs in character from that of ordinary lunatics. In connection with these may be mentioned persons apparently insane under remand and awaiting trial.

Statutory powers of detention.

The statutory powers which provide for the detention of these two classes, and also of a few other special kinds, as King's pleasure lunatics, are to be found in—

39 & 40 Geo. 3, c. 94, ss. 2, 4.

14 & 15 Vict. c. 81, ss. 1, 2.

46 & 47 Vict. c. 38, s. 2.

Thirdly. Convicts and other prisoners undergoing sentences who have become insane under sentence. These persons are strictly criminals, but it is only while they are criminals, *i.e.*, during the currency of their sentence, that they are criminal lunatics.

The statutory powers which provide for the detention of this class as Secretary of State's lunatics are to be found in section 2 of the Criminal Lunatics Act, 1884, 47 & 48 Vict. c. 64.

Two classes of criminal lunatics.

For practical purposes, therefore, criminal lunatics may be divided into two classes :—

(a.) King's pleasure lunatics ;

(b.) Secretary of State's lunatics.

Ex-criminal lunatics.

But while it has been shown who are the persons whom the law designates "criminal lunatics," it is of importance to indicate who those persons are who are sometimes erroneously spoken of as criminal lunatics. Persons, for instance, who were at one time criminal lunatics, but who having been absolutely discharged from the custody of the State, either by the completion of their sentences of imprisonment, or under the provisions of section 5 of the Criminal Lunatics Act, 1884, 47 & 48 Vict. c. 64, have ceased to be criminals, and cannot, therefore, any longer be criminal lunatics. So also persons who have at some period of life been either convicted of crime or in prison under a criminal charge, and who have left prison in a state of sanity, but who have afterwards become insane, neither are, nor ever have been, criminal lunatics.

Both these classes are sometimes designated ex-criminal lunatics, and they may both be expected to exhibit some of the

characteristics, whatever those may be, of criminal lunatics Introduc.
correctly so called.

It will be seen, on consideration, that the distinction between Distinction
between
criminal and
all other
lunatics.
persons who are termed criminal lunatics and persons who belong to other classes of lunatics is, that all criminal lunatics, of whatever kind, are in custody by virtue of an order of a court of law; and no criminal lunatic can be discharged without a warrant signed by the Secretary of State.

Historical Sketch.

Prior to the attempt made by Hadfield in the year 1800 upon Hadfield's
case, 1800.
the life of the King, the mode of procedure in regard to the treatment of criminal lunatics was varying and uncertain; but when Hadfield was tried and found to be insane, and when the question arose how the prisoner was to be disposed of, the law upon the subject was found to be so unsatisfactory, that no further time was lost in amending it.

The trial of Hadfield took place on the 26th June, 1800, and the Act entitled "An Act for the Safe Custody of Insane Persons charged with Offences," was passed on the 28th July in the same year(a).

This is the oldest of the statutes relating to insane persons Hadfield's
Act, 1800.
charged with crime of which any part is still in force. Under its first and second sections persons acquitted on the ground of insanity (who are now, however, if they have committed the act charged to be found guilty but insane, as hereinafter mentioned), and persons found insane on arraignment may be ordered by the court to be kept in strict custody until His Majesty's pleasure is known, and such persons are (with persons found guilty but insane at the time of the act or omission charged who may be similarly detained as hereinafter mentioned) hence called King's pleasure lunatics. There is, moreover, in the fourth section a special provision that insane persons by whom the Sovereign's person is endangered may be kept in safe custody by order of the Privy Council or Secretary of State pending further inquiry. And the detention of such persons in confinement rests with the Lord Chancellor, Lord

(a) It will be seen that this Statute is and has been referred to under a short title as a Criminal Lunatics Act. See *Rex v. Governor of Stafford Prison, Ex parte Emery*, [1909] 2 K. B. 81. The point is discussed at length in the *Law Quarterly Review*, April, 1913, p. 186.

Introduc. Keeper, or Lords Commissioners for the custody of the Great Seal.

Select Com-
mittee of
1807.

In 1807, a Select Committee on Criminal and Pauper Lunatics was appointed by the House of Commons, and in their Report they recommended "that a building should be erected for the separate confinement of all persons detained under the above-mentioned Act for offences committed during a state of insanity ; and that provisions should be enacted similar to those of 17 Geo. 2, c. 5, s. 20, directing the magistrates of the county where the trial has been had, in all cases where it shall appear to them that a lunatic has not sufficient property to defray the expenses of his own maintenance, to inquire into the place of his last legal settlement, and to make an order upon such parish, or if that cannot be ascertained, upon the county where he has been tried, to allow such weekly sum for his maintenance as shall from time to time be fixed by the Secretary of State for the Home Department, or such persons as His Majesty shall appoint to superintend such place of confinement."

"As one establishment of this nature will be sufficient for the whole kingdom, it may be expedient that it should be in or near the metropolis, and that power should be given to the Secretary of State to make such regulations as may not only provide for the care and management of the persons there confined, but may also ensure a full examination by competent judges into the state of mind of any person who may appear to be cured previous to his being allowed his discharge."

Criminal
wards at
Bethlehem
Hospital,
1814.

Six years afterwards, namely, in 1814, wards constructed for criminal lunatics were attached to Bethlehem Hospital at a cost of 25,144*l.* upon the understanding that the Government would defray the annual charge of maintaining such criminal lunatics as might be detained therein, but that their control and management should be under the superintendence of the Governors of Bethlehem Hospital, and that they should be attended to by the medical and other officers of that establishment. (Parliamentary Paper, No. 443, 1816.)

Fisherton
House, 1849.

The Government a few years later found it necessary to double the accommodation at Bethlehem Hospital, and afterwards still further provision was required. Hence, an arrangement was entered into in 1849 between the Secretary of State and the proprietor of Fisherton House, near Salisbury, for the erection of detached wards in connection with that asylum for

the accommodation of those criminal lunatics who were in excess of the number for whom provision existed at Bethlehem. Introduct.
 In the meantime a Select Committee was appointed by the House of Lords in 1835, and this Committee strongly recommended that "persons whose trials have been postponed, or who having been tried have been acquitted on the ground of insanity, shall not be confined in the prisons or houses of correction." (Parliamentary Paper, No. 42, 1835.) Select Com-
mittee, 1835.

In 1840, 3 & 4 Vict. c. 54, was passed, and by this Act, the main purpose of which was to provide for the removal of insane prisoners to asylums during their insanity, and for their maintenance in such asylums, the regulations made by the 39 & 40 Geo. 3, c. 94, with respect to persons charged with treason, murder, or felony, were extended to persons charged with misdemeanour. Act of 1840.

The wards provided in 1849 at Fisherton House, as well as those previously provided at Bethlehem, having become filled, and further accommodation being still required, instructions were given by the Secretary of State in 1856 for the erection of the Broadmoor Asylum. Whilst the asylum was in process of building, namely, in 1859, another Select Committee was appointed by the House of Commons to inquire into the operation of Acts of Parliament relating to lunatics. Building of
Broadmoor
commenced,
1856.

Select Com-
mittee, 1859.

Their Report, issued in 1860, referring to criminal lunatics, contains the following observations:—"To mix such persons with other patients is a serious evil; it is detrimental to the other patients as well as to themselves; but to liberate them on recovery, as a matter of course, is a still greater evil, and could not be sanctioned, for the danger to society would be extreme and imminent." (Parliamentary Paper, No. 495, 1860.)

Following upon this Report, a further Act of Parliament, to make better provision for the custody and care of Criminal Lunatics, and for the regulation of Criminal Lunatic Asylums, was passed in August, 1860(a). This Act is commonly known as the Broadmoor Act. By the first section His Majesty is enabled by warrant to appoint any asylum or place in England that may be deemed suitable to be an asylum for criminal lunatics, and under this authority Broadmoor, and as yet Broadmoor alone, has been so appointed. And under sections 4 and 5 the Broadmoor
Act, 1860.

(a) The Criminal Lunatic Asylums Act, 1860, *post*, p. 703 *seq.*

- Introduct.** Secretary of State is empowered to appoint a Council of Supervision, as well as officers, attendants, and servants for any asylum provided under the Act, and to make rules for the government of such asylum.
- Opening of Broadmoor Asylum, 1863.** In 1863 the Broadmoor Asylum was opened, and the evils formerly arising out of the confinement of criminal lunatics in prisons or in ordinary lunatic asylums were, to a great extent, removed.
- Act of 1864.** In 1864, 27 & 28 Vict. c. 29, was passed, which amended 3 & 4 Vict. c. 54, at least, so much of it as related to prisoners found insane when in prison, and liable to be detained by a warrant of the Secretary of State.
- Criminal Lunatics Act, 1867.** In 1867, the 30 Vict. c. 12, which, amongst other important provisions, gave a definition of "criminal lunatic," and provided for the transfer of persons from a criminal lunatic asylum to a county lunatic asylum, was enacted; and the sixth section of it was, in 1869, made retrospective by the 32 & 33 Vict. c. 78.
- Woking Convict Prison, 1875.** In 1875, a vital change affecting very materially the administration of these Acts was made under the authority of the Secretary of State. In February of that year, on the recommendation of the then Secretary of State, the Treasury sanctioned the establishment of a lunatic wing at Woking Convict Prison, at a cost not to exceed 7,000*l.*, in order that insane convicts might thereafter be sent to it instead of to Broadmoor. This plan was carried into execution, but the lunatic wing was not appointed, under the first section of the Broadmoor Act, "an asylum for criminal lunatics."
- Departmental Commission, 1880.** In 1880, a Departmental Commission was appointed by the then Home Secretary to inquire into the subject of criminal lunacy with reference particularly to the following questions:—
- (a.) Whether it was desirable that criminal lunatics should be separated from pauper lunatics to a greater degree than then obtained;
 - (b.) Whether special provisions should be made for the care and custody of imbeciles and lunatics who are habitually criminal;
 - (c.) Whether any change should be made in the incidence of charge for the maintenance of any class of criminal lunatics; and
 - (d.) Whether, having regard to the above questions, any modification should be made in the purposes to which

Broadmoor Criminal Lunatic Asylum was then Introduc.
appropriated.

The Commissioners made their Report in 1882 (Parliamentary Paper C—3418), summing up their main conclusions as follows:—

“ 1. That the association of persons who are legally or technically criminal lunatics with pauper lunatics does not take place to a large extent.

“ 2. That in order to remove complaints arising out of such association, agreements might be entered into by the Prison Commissioners with conveniently situated county and borough asylums to receive from local prisons those insane prisoners who would not willingly be received until after the expiration of their sentence by the asylums of their own counties, to be maintained in such selected asylum at the charge of the State; and, failing such agreement, insane prisoners from local prisons should be sent to a criminal lunatic asylum.

“ 3. That if it is necessary to make special provision for specially dangerous pauper lunatics, the proper course is for the local authorities of counties and boroughs, by united action, to build one or more asylums designed to receive such specially dangerous lunatics.

“ 4. That it is desirable that the Secretary of State should have wide discretionary powers in the disposal of criminal lunatics according to the requirements of their condition, and that his power to discharge them absolutely or conditionally, and his power to place them in county, borough, or other public asylums, are useful powers which may be exercised with safety to the public and without injury to any other class of lunatics.

“ 5. That the warrants of the Secretary of State under which criminal lunatics are sent to county and borough asylums, should show by their terms that they cease and determine whenever the lunatics are no longer in the custody of the State, by the completion of their sentence or otherwise.

“ 6. That the Secretary of State should be empowered to remove those Scotch lunatic convicts at Broadmoor whose sentences have expired, to Perth General Prison to be afterwards distributed, or direct to a district lunatic asylum; and to discharge the military and naval patients there, whose sentences have expired, to the asylums of their places of settlement, or in cases where their settlement cannot be ascertained, of the districts where they were enlisted.

Introduct. "7. That there should be a systematic revision of the condition and circumstances of all Queen's pleasure lunatics at the end of each year, and that no such person should be detained more than three years in custody without the issue of an order from the Home Secretary confirming the order.

"8. That it is not desirable that criminal lunatics should be provided for or boarded in licensed houses.

"9. That the Government should undertake and be responsible for the maintenance of all persons who are legally criminal lunatics in whatever manner or place they are provided for.

"10. That the irregular detention of insane convicts at Woking Prison should cease; but that the wing set apart for that purpose should be recognised under the Broadmoor Act as an asylum for criminal lunatics, unless it be thought more desirable to utilise Broadmoor.

"11. That Broadmoor should be reserved, even more than it is at present, for cases requiring special care and treatment, either Queen's pleasure lunatics, or Secretary of State's lunatics, such as prisoners certified to be insane after being sentenced to death.

"12. That the existing laws relating to criminal lunatics in England and Wales are very complicate and perplexing, and that it is most desirable to consolidate and amend them.

"13. That the question relating to the care and custody of imbeciles who are habitual criminals is found to be of so wide a character, and to have possible results of such magnitude, that it is not desirable to delay our Report on the other subjects of the inquiry until complete evidence on all branches of this question can be obtained."

Trial of
Lunatics Act,
1883.

In 1883, the Trial of Lunatics Act, 46 & 47 Vict. c. 38, was passed, superseding the provisions of the 39 & 40 Geo. 3, c. 94, s. 1, and the 3 & 4 Vict. c. 54, s. 3, with regard to persons found on their trial to have been insane at the time of committing the offence charged. Such persons were by that Act in future to be specially found guilty, but insane at the time of committing the offence, if they had done all that was otherwise necessary to constitute the offence charged. The result of such verdict was the same under this Act as that of a verdict of acquittal on the ground of insanity under the previous statutes.

Colonial
Prisoners
Removal Act,
1884.

In 1884, two further Acts were passed relating to criminal lunatics. By the one, viz., the Colonial Prisoners' Removal Act, 47 & 48 Vict. c. 38, provision was made for the removal

of any criminal lunatic, for the sake of his health or for safe custody, from any British possession to any other British possession or to the United Kingdom. By the other, viz., the Criminal Lunatics Act, 47 & 48 Vict. c. 64, the great part of the remainder of the law relating to criminal lunatics was consolidated and amended in accordance with the suggestions of the Departmental Committee of 1880.

Introduct.

Criminal Lunatics Act, 1884.

Summary of Statutes.

The provisions of the Statutes now in force relating to criminal lunatics may be shortly summarized under the following heads ;—

Division of subject.

1. Apprehension of dangerous lunatics.
2. Prisoners found to be insane at the time of committing their offences.
3. Prisoners found to be insane at the time of trial.
4. Prisoners found to be insane during custody before trial or after conviction.
5. Asylums for criminal lunatics.
6. Transfer and conditional discharge of criminal lunatics.
7. Maintenance of criminal lunatics.
8. Persons ceasing to be criminal lunatics.
9. Criminal lunatics and insane prisoners becoming pauper lunatics.

1. *Apprehension of Dangerous Lunatics.*] If any one is discovered and apprehended under circumstances which denote that he is deranged and has a purpose of committing some indictable offence two justices are to inquire into the case with the assistance of a medical man ; and if on such inquiry they find that the person apprehended is insane or a dangerous idiot, they are to order the constable or the overseer of the parish in which the apprehension took place to remove him to the county lunatic asylum, or if there be no such asylum, then to a registered hospital or licensed house (1 & 2 Vict. c. 14, s. 2).

Arrest of dangerous lunatics.

But should any relation or friend offer to take charge of the lunatic, he may do so on giving security for his peaceable behaviour and safe custody (1 & 2 Vict. c. 14, s. 2).

Where the justices order the lunatic to be removed to an asylum, they are also to inquire into his settlement, and having adjudicated thereon, to make an order on the parish or union

Introduct. in which he was found for payment of the expenses of the examination and removal, and of a weekly sum for his subsequent maintenance; but if the justices cannot ascertain the settlement, the order for payment is to be made on the county or borough. An appeal to quarter sessions lies against the order, and will be conducted in the same manner as an appeal against an order of removal of a pauper (1 & 2 Vict. c. 14, s. 2).

There does not appear to be any reason why these cases should not now be dealt with and sent to an institution by means of a Summary Reception Order, under section 13 *seq.* of the Lunacy Act, 1890, *ante*, p. 170, or even upon a Reception Order on Petition, under section 4 *seq.* of the Lunacy Act, 1890, *ante*, p. 156.

**Verdict of
guilty, but
insane.**

2. *Persons found to have been insane at the time of committing their offences.*] If at a trial for any offence, evidence is given that at the time of the commission of the crime the prisoner was insane, the jury must find specially that he was guilty of the offence charged, but was insane at such time. If they so find, the court is to order him to be kept in custody as a criminal lunatic until an order is made by His Majesty for his safe custody during pleasure (46 & 47 Vict. c. 38, s. 2). On such order being made the prisoner will be removed to the place specified therein.

Persons acquitted of crimes or offences in India, on the ground of insanity, may be removed to the United Kingdom, and kept in safe custody (14 & 15 Vict. c. 81, ss. 1, 2). The expenses of their removal are payable by the Government of India out of the revenues of India (14 & 15 Vict. c. 81, s. 3; 47 & 48 Vict. c. 31, s. 16 (2); 47 & 48 Vict. c. 64, s. 10 (4)).

**Verdict of
insanity.**

3. *Prisoners found to be insane at the time of trial.*] If a person charged with any indictable offence appears on arraignment to be insane, a jury is to be empannelled for the purpose of trying the question of his sanity, and if they find him to be then insane, the trial will not proceed, but the finding is to be recorded, and an order made for the prisoner to be kept in custody until His Majesty's pleasure is known. An order may then be made by the Crown for his safe custody, at a place specified, during His Majesty's pleasure (39 & 40 Geo. 3, c. 94, s. 2).

If, at the trial for an indictable offence, the jury find the prisoner to be then insane, their finding is to be recorded as in the case of a prisoner found insane upon arraignment, and

similar orders for his safe custody are to be made (39 & 40 Geo. 3, c. 94, s. 2). Introduct.

Where a prisoner who has been charged with any offence, is brought before any court to be discharged for want of prosecution, and appears to be then insane, a jury is to be empanelled for the purpose of trying the question of his sanity, and if they find him to be insane, he is to be ordered to be kept in custody till His Majesty's pleasure be known, and a similar order of the Crown may then be made for his custody during His Majesty's pleasure (39 & 40 Geo. 3, c. 94, s. 2).

4. *Prisoners found to be insane during custody whether before trial or after conviction.*] Where it appears that any prisoner (that is, any person committed whether on remand or for trial, safe custody, or punishment or otherwise, under any other than civil process), not being under sentence of death, is insane, if the prison is a convict prison one of the Directors of Convict Prisons, or if the prison is within the jurisdiction of the Prison Commissioners one of such Commissioners, and in any other case, two visitors of the prison, or two justices of the place in which it is situate, must call in the assistance of two legally qualified medical men and examine the prisoner and inquire into his sanity, and after such examination and inquiry may certify in writing that he is insane (47 & 48 Vict. c. 64, s. 2 (2)). Certificate of insanity during custody.

In the case of a prisoner under sentence of death if it appears to the Secretary of State that there is reason to believe such prisoner to be insane, he must appoint two legally qualified medical men to examine and inquire into his sanity, and after such examination and inquiry they must make a report, and may certify in writing that the prisoner is insane (47 & 48 Vict. c. 64, s. 2 (4)).

Where a prisoner is certified as above described to be insane, the Secretary of State may by warrant direct his removal to an asylum, and thereupon he must be removed accordingly and detained as a criminal lunatic (47 & 48 Vict. c. 64, s. 2 (1)).

5. *Asylums for Criminal Lunatics.*] His Majesty may from time to time cause to be provided suitable asylums in England, and by royal warrant appoint that they shall be asylums for criminal lunatics (23 & 24 Vict. c. 75, s. 1). Any person who may be ordered to be kept in safe custody during His Majesty's pleasure, any criminal lunatic whom the Secretary of State may order to be removed to a lunatic asylum, or any prisoner Criminal lunatic asylums.

Introduct. sentenced to penal servitude whom he may find to be insane, may be sent to one of these asylums under warrant of the Secretary of State (23 & 24 Vict. c. 75, s. 2). But this power is not to affect the authority of the Crown to make orders for the safe custody of insane persons, nor that of the Secretary of State to direct lunatics to be removed to a county lunatic asylum or other place for the reception of lunatics (23 & 24 Vict. c. 75, s. 3).

Council of supervision.

The Secretary of State may appoint three or more persons to be the council of supervision of each criminal lunatic asylum. He may also appoint a resident medical superintendent, and a chaplain, and other necessary officers and servants, and fix their salaries (23 & 24 Vict. c. 75, s. 4).

Rules.

Rules for the management of the asylum, for the duties and conduct of the officers, and the care and treatment of the patients, are to be made by the Secretary of State, and certified by him to be fit to be enforced. On being so certified, they become binding on all persons affected by them, but they are to be laid before Parliament within 21 days after they are made, or after Parliament next meets (23 & 24 Vict. c. 75, s. 5). Subject to the rules, the council of supervision are to superintend the asylum, and make reports to the Secretary of State as the rules provide, and at other times when they think fit (23 & 24 Vict. c. 75, s. 6).

Dissenting lunatics.

It was mentioned above that a chaplain was to be appointed for the asylum, but where a lunatic is not of the Established Church, he or his friends for him may, by application to the medical superintendent, procure the visitation of a minister of his own persuasion (23 & 24 Vict. c. 75, s. 6).

Superintendents' reports.

It is the duty of the superintendent of every asylum, or other place where a criminal lunatic is detained, to make a report to a Secretary of State at such times (not being less than once a year), and containing such particulars as the Secretary of State may require, of the condition and circumstances of every criminal lunatic in such asylum or place; and the Secretary of State must, at least once in every three years during which a criminal lunatic is detained in any asylum or other place, take into consideration the condition, history, and circumstances of such lunatic, and determine whether he ought to be discharged or otherwise dealt with (47 & 48 Vict. c. 64, s. 4 (1)).

Escape and recapture.

Escaped lunatics may be retaken by the superintendent or any officer or servant, or any person assisting them, or specially

authorised in writing by the Secretary of State or the superintendent (23 & 24 Vict. c. 75, s. 11). This provision applies to every asylum or place in which a criminal lunatic is detained, so far as regards those lunatics, and to the criminal lunatics in every such asylum or place, as if it were a criminal lunatic asylum (47 & 48 Vict. c. 64, s. 11).

Introduct.

Any person rescuing, or any officer or servant assisting or conniving at escape, is guilty of felony, and liable to penal servitude for four years, or to imprisonment with or without hard labour for two years. Any officer or servant by carelessness allowing an escape is liable to a penalty of 20*l.* (23 & 24 Vict. c. 75, s. 12). This provision is applicable to the like persons and places as the one immediately before mentioned (47 & 48 Vict. c. 64, s. 11).

Ill-treatment of a lunatic by the superintendent or any officer, servant, or other person employed in the asylum, is a misdemeanor, and the offender is liable, on conviction on indictment, to fine or imprisonment, or both, or on summary conviction, to a penalty of 20*l.* (23 & 24 Vict. c. 75, s. 13). The abuse of or attempt to abuse any female lunatic in an asylum for criminal lunatics by any officer, nurse, attendant, or other person employed in such asylum is a misdemeanor punishable by imprisonment, with or without hard labour, for any term not exceeding two years, and consent is no defence (53 Vict. c. 5, s. 324).

Ill-treatment
by officers.

Two or more of the Commissioners in Lunacy, one being a medical and one a legal Commissioner, are required to visit every criminal lunatic asylum at least once a year, and at other times if directed by a Secretary of State, and to inquire into the mental and bodily condition of the inmates, and such other matters as they think fit, or the Secretary of State directs (23 & 24 Vict. c. 75, s. 14).

Visitation by
Commissioners in
Lunacy.

The Commissioners are to make a report every March of all such visits made in the preceding year, and of all particulars requiring notice. These reports are to be laid before Parliament (23 & 24 Vict. c. 75, s. 15). Special visits may be directed by the Lord Chancellor or Secretary of State, and a report to be made forthwith (53 Vict. c. 5, s. 205).

6. *Transfer, Removal, and Conditional Discharge of Criminal Lunatics.*] A Secretary of State may, from time to time, by warrant, direct the transfer to an asylum of any criminal

Introduct. lunatic detained in any other asylum or place, and such criminal lunatic shall accordingly be received and detained in the asylum to which he is so transferred (47 & 48 Vict. c. 64, s. 5 (1)).

Transfer to county or borough asylum.

This power is, with respect to the transfer of any lunatic from a criminal lunatic asylum to a county or borough asylum, subject to the following restrictions—

- (1.) The Secretary of State must be satisfied, either by a certificate from a legally qualified medical man, that the lunatic is in such a state of insanity that he can be properly treated in an ordinary asylum, or that the visiting committee of the asylum consents to receive him.
- (2.) Where, after transfer, the visiting committee satisfy the Secretary of State that the lunatic is in such a state of insanity that he cannot be properly treated in their asylum, and request the Secretary of State to transfer him to some other asylum, the Secretary of State must so transfer him at the cost of such visiting committee (47 & 48 Vict. c. 64, s. 9 (1), (3)).

Transfer from British possession.

A criminal lunatic may be removed for the sake of his health, or for safe custody, from any British possession to the United Kingdom, or to any other British possession, by warrant of a Secretary of State or of the governor of the British possession, and if, being a criminal lunatic by reason of being unfit to be tried for an offence, he becomes sufficiently sane to be tried, he may be remitted for trial to the British possession from which he was removed (47 & 48 Vict. c. 31, s. 10). If under sentence, he may be returned for the residue, or for discharge, and if discharged on the expiration of sentence, he has a right to be returned free of cost, unless a naval or military man at the date of sentence (47 & 48 Vict. c. 38, ss. 3, 10). The costs of removal, and of maintenance while in confinement, and of return, are payable as may be arranged between the Governments of the British possessions concerned and the Secretary of State, but the liability of the property of the lunatic to reimburse such expenses is not affected thereby (47 & 48 Vict. c. 31, s. 11).

Transfer from India.

The removal from India of insane persons charged with offences is the subject of a separate Act (14 & 15 Vict. c. 81), and the expenses are payable by the Government of India.

Discharge.

A Secretary of State may discharge a criminal lunatic on

such conditions as to the duration of such discharge and other- Introduct.
wise as he may think fit (47 & 48 Vict. c. 64, s. 5 (2)).

When a criminal lunatic has been conditionally discharged Conditional discharge.
a report of his condition must be made to a Secretary of State
by such person, at such times, and containing such particulars,
as may be required by the warrant of discharge (47 & 48 Vict.
c. 64, s. 4 (2)). And the Treasury may, from time to time,
contribute out of moneys provided by Parliament such sums as,
on the recommendation of a Secretary of State, they may think
fit, towards the cost of his maintenance, so long as he continues
to be subject to any conditions of discharge (47 & 48 Vict. c. 64,
s. 10 (2)).

If any of the conditions of discharge appear to a Secretary of
State to be broken, or the conditional discharge is revoked, the
Secretary of State may, by warrant, direct him to be taken into
custody, and conveyed to some asylum named in the warrant ;
and he may thereupon be taken in like manner as if he had
escaped from such asylum, and shall be received and detained
therein as if he had been removed thereto as above-mentioned
in sub-division 4 of this summary (47 & 48 Vict. c. 64,
s. 5 (3)).

7. *Maintenance of Criminal Lunatics.*] All expenses incurred Maintenance
by Parlia-
ment.
under the Criminal Lunatics Act, 1884, in relation to a criminal
lunatic while detained in an asylum (including the cost of his
lodging, clothing, medicine, and care) are defrayed out of
moneys provided by Parliament, and the cost of maintenance of
a criminal lunatic in a county or borough asylum is at the
same rate as if he were a lunatic sent from a union or parish
situate elsewhere than in the county or borough to which the
asylum belongs (47 & 48 Vict. c. 64, s. 10 (1)).

But section 299 of the Lunacy Act, 1890, 53 & 54 Vict. c. 5, Recovery of
expenses out
of property.
giving power to recover expenses against the estate of any
chargeable lunatic having more than sufficient property to
maintain his family, is applicable in the case of a criminal
lunatic wherever he may be detained, and such power may be
exercised by any two justices of the county or place where he
is detained. And the powers and provisions of Part IV. of the
Lunacy Act, 1890, 53 & 54 Vict. c. 5, relating to management
and administration of property, apply to every person with
regard to whom the Judge in Lunacy is satisfied that such
person is or has been a criminal lunatic, and continues to be

Introduct. insane and in confinement (47 & 48 Vict. c. 64, s. 10 (3) ; 53 & 54 Vict. c. 5, ss. 116 (1) (f), 299).

Ex-criminal lunatics. 8. *Persons ceasing to be Criminal Lunatics.*] A person ceases to be a criminal lunatic if he is remitted to prison, or absolutely discharged in the manner provided by the Criminal Lunatics Act, 1884, or if any term of penal servitude or imprisonment to which he may be subject determines (47 & 48 Vict. c. 64, s. 2 (2)).

Remission to prison. Where it is certified by two legally qualified medical men that a criminal lunatic (not being a person specially found guilty of an offence, but insane at the time of committing it) is sane, a Secretary of State, if satisfied that it is proper to do so, may by warrant direct him to be remitted to prison to be dealt with according to law (47 & 48 Vict. c. 64, s. 3).

Absolute discharge. A Secretary of State may by warrant absolutely discharge any criminal lunatic (47 & 48 Vict. c. 64, s. 5 (2)).

Where a criminal lunatic is absolutely discharged before the expiration of any term of penal servitude or imprisonment to which he is subject, the Treasury may from time to time contribute out of moneys provided by Parliament such sums as on the recommendation of a Secretary of State they may think fit towards the cost of his maintenance until the expiration of his sentence (47 & 48 Vict. c. 64, s. 10 (2)).

Where a criminal lunatic is absolutely discharged or the term of penal servitude or imprisonment to which he may be subject determines, it is the duty of the superintendent of the asylum or place where he is detained, unless satisfied that he is sane, to take all reasonable means for placing him under the care of some relation or friend or in some asylum or place for the reception of lunatics (47 & 48 Vict. c. 64, s. 6). For this purpose he may send to any justice of the peace having jurisdiction where the asylum or place is situate a notice in writing that such person is about to be absolutely discharged, or that his sentence is about to determine (as the case may be), and that in the opinion of the superintendent such person is insane and unfit to be at large (47 & 48 Vict. c. 64, s. 7 (1)).

Removal to pauper asylum. 9. *Criminal Lunatics and Insane Prisoners becoming Pauper Lunatics.*] A criminal lunatic, or prisoner certified to be insane but not directed by the Secretary of State to be removed to an asylum, may become a pauper lunatic as follows :—

On a written notice given by the superintendent of the asylum, or by the governor of the prison, to a justice of the peace having jurisdiction where the asylum or prison is situate, or being a member of the visiting committee of the prison, that the lunatic is about to be absolutely discharged, or that his sentence is about to determine, as the case may be, and that he is insane and unfit to be at large, the justice must examine the lunatic and make any inquiry and take any medical or other evidence about him that he may deem necessary (47 & 48 Vict. c. 64, s. 7 (1)).

Introduct.

If satisfied on such examination and inquiry that he is insane and a proper person to be detained under care and treatment, the justice must order him to be detained in a specified asylum or place of confinement for lunatics. If within one month of the date of the notice the lunatic is absolutely discharged or his sentence expires, the justice's order takes effect, and he becomes a pauper lunatic (47 & 48 Vict. c. 64, s. 7 (2)).

On becoming a pauper lunatic the party is *primâ facie* chargeable to the union or parish of his ordinary residence, or if that cannot be ascertained, then to the union or parish in which his offence was committed; or if that is out of the United Kingdom, then to the union or parish where he was first apprehended; or if he was first apprehended out of the United Kingdom, then to the union or parish where he first landed. But if a naval or military man, or the wife or child of such man, the lunatic is *primâ facie* chargeable to the union or parish to which such man appears to be chargeable from his declaration on entering the navy or from his attestation paper on enlistment (47 & 48 Vict. c. 64, s. 8 (1)).

The justice's order has the same effect as an order and certificate in the case of a wandering lunatic, and if the lunatic is detained in an asylum or place to which lunatics may be sent under the Lunacy Act, 1890 (see section 27), he is to be deemed to have been received therein in pursuance of the order, and if detained elsewhere he is to be removed to an asylum or place to which he might have been sent if he had been a lunatic found wandering in the union or parish to which he is *primâ facie* chargeable as above mentioned. If, however, medically certified unfit for removal thereto, he may be sent to any nearer asylum willing to receive him, or to any criminal lunatic asylum, but in either case is to be deemed to have been sent as a wandering

- Introduct.** lunatic, and the expenses defrayed and himself removed, when fit, accordingly (47 & 48 Vict. c. 64, s. 8 (2)).
- Removal to Scotland or Ireland.** Provision is also made for removal to Scotland or Ireland where the union or parish to which the lunatic is *primâ facie* chargeable is there situate (47 & 48 Vict. c. 64, s. 8 (3), (4), (5)).
- Expenses of removal.** All expenses of removal to an asylum or place of confinement in any part of the United Kingdom are payable out of moneys provided by Parliament, subject to the liability of the property of the lunatic, if any, to be applied for that purpose by an order of the Judge in Lunacy under section 116, or by order of justices under section 299 of the Lunacy Act, 1890 (47 & 48 Vict. c. 64, s. 10 (1)).
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THE CRIMINAL LUNATICS ACT, 1800.

39 & 40 GEO. 3, CAP. 94.

AN ACT for the Safe Custody of Insane Persons charged with Offences.
[28th July, 1800.]

WHEREAS persons charged with high treason, murder, or felony Preamble.
may have been or may be of unsound mind at the time of
committing the offence wherewith they may have been or
shall be charged, and by reason of such insanity may have been
or may be found not guilty of such offence, and it may be
dangerous to permit persons so acquitted to go at large :—

[*The jury, in case of any person charged with treason, &c., being proved to be insane, and being acquitted, to declare whether he was acquitted by them on account of insanity ; and if so acquitted, the court shall order him to be kept in custody till His Majesty's pleasure be known ; and His Majesty may give orders for his safe custody, &c.*]

This section has been repealed as to England and Ireland by section 4 and the schedule of the Trial of Lunatics Act, 1883, 46 & 47 Vict. c. 38, and other provision made by that Act : see *post*, p. 713.

This Act was passed in consequence of *Hadfield's Case*, 27 Howell's State Trials, 1281. James Hadfield was tried at the bar of the Court of King's Bench on the 26th June, 1800, for high treason, he having discharged a pistol at King George the Third on the night of the 15th May, in the Theatre Royal, Drury Lane. The prisoner being under the influence of insanity at the time the act was committed, was found not guilty, but was not discharged, but remanded to the confinement he came from, and afterwards to Bethlehem Hospital.

In his speech introducing the Bill, the Attorney-General (Sir JOHN MITFORD, afterwards Lord REDESDALE, successively Speaker of the House of Commons and Lord Chancellor of Ireland) said :—" By the common law, when a person of this kind is acquitted, the court before which he is tried have full power to direct the safe custody of such a person ; but then the law has so little regulated that custody, and is so silent as to the rules to be observed with regard to it, that it may be said to be defective in that particular ; and, on reflection, I think it will be impossible to lay down

Preamble. any positive rule with regard to the manner of that custody, and, therefore, much must be left to the discretion of the executive government. But when we consider the circumstances of these unhappy persons, that generally they are of low habits and connexions, and seldom have any friends to take care of them, it will appear to be humane to give to the executive government some discretion to dispose of them : ” Cobbett’s Parl. Hist., vol. 35, p. 390.

NOTE.

If any person indicted for any offence, shall upon arraignment or trial be found to be insane, &c., the court shall order him to be kept in custody till His Majesty’s pleasure be known.

Proceedings where person brought up to be discharged for want of prosecution appears to be insane.

2. And (*be it further enacted, that*) if any person indicted for any offence shall be insane, and shall upon arraignment be found so to be by a jury lawfully impanelled for that purpose, so that such person cannot be tried upon such indictment, or if upon the trial of any person so indicted such person shall appear to the jury charged with such indictment to be insane, it shall be lawful for the court, before whom any such person shall be brought to be arraigned or tried as aforesaid to direct such finding to be recorded, and thereupon to order such person to be kept in strict custody until His Majesty’s pleasure shall be known ; and if any person charged with any offence shall be brought before any court to be discharged for want of prosecution, and such person shall appear to be insane, it shall be lawful for such court to order a jury to be impanelled to try the sanity of such person ; and if the jury so impanelled shall find such person to be insane, it shall be lawful for such court to order such person to be kept in strict custody, in such place and in such manner as to such court shall seem fit, until His Majesty’s pleasure shall be known ; and in all cases of insanity so found, it shall be lawful for His Majesty to give such order for the safe custody of such person so found to be insane, during his pleasure, in such place and in such manner as to His Majesty shall seem fit.

The words “ be it further enacted that,” were repealed by the Statute Law Revision Act, 1888, 51 & 52 Vict. c. 3. By section 8 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, it is enacted that every section of an Act shall have effect as a substantive enactment without introductory words.

The marginal notes are as in the second revised edition of the Statutes, vol. iii., p. 910.

Application to Misdemeanors.—With regard to the foregoing section, it was held that it extended to all offences, whether misdemeanors or felonies, although the first section (now repealed as above noted) applied only to persons charged with treason, murder, or felony ; and that where a person indicted for a misdemeanor was found by the jury charged with the indictment to be insane at the time of the commission of the offence

and also at the time of the trial, the judge had power to order him to be kept in custody until His Majesty's pleasure should be known: *Rex v. Little* (1821), Russ. & Ry. 430. Section 2.

NOTE.

Stay of Proceedings at Common Law.—At common law if it appeared during a trial that the prisoner, though he has pleaded not guilty, is mad, the judge might discharge the jury of him, that he might be tried after the recovery of his understanding: 1 Hale, P. C. 34, cited by FOSTER, J., in 18 How. St. Tr. 411.

Course of Proceedings.—Where upon arraignment the prisoner stands mute the first question to be inquired into is whether the prisoner is mute of malice or by the visitation of God. If the jury impanelled for that purpose find a verdict of mute by the visitation of God, the judge may direct a plea of not guilty to be entered for him, or may order the jury to be sworn to inquire whether the prisoner is able to plead or not. If a plea of not guilty is entered by direction of the judge, or the jury find that the prisoner is able to plead and he pleads not guilty, the next question is whether the prisoner is of sufficient intellect to comprehend the course of proceedings at the trial so as to make a proper defence, and for this purpose the jury should be sworn to try whether the prisoner be "now sane or not." If the jury find the prisoner incapable of understanding the course of the proceedings they should be discharged, and the prisoner ordered to be detained during His Majesty's pleasure: *Rex v. Dyson* (1831), 7 C. & P. 305 *n.*; *Rex v. Pritchard* (1836), 7 C. & P. 303; *Reg. v. Davies* (1853), 6 Cox C. C. 326; *Reg. v. Berry* (1876), 1 Q. B. D. 447; 45 L. J. M. C. 123.

The jury may form their own opinion as to the state of the defendant's mind from his demeanor in court, and may find him insane without any medical evidence as to his state of mind at the time of the inquiry, and upon his showing strong symptoms of insanity during the inquiry it is unnecessary to ask him whether he will cross-examine the witnesses or offer any evidence: *Reg. v. Goode* (1837), 7 A. & E. 536.

3. [*Persons committed by any justice on account of being dangerous and insane shall not be bailed except by two justices.*]

This section is repealed by section 1 of the Criminal Lunatics Act, 1838, *post*, p. 694, and other provisions with regard to dangerous persons are made by that Act.

4. [*The Privy Council or one of the Secretaries of State may cause persons appearing to be insane and endeavouring to gain admittance to His Majesty, to be kept in custody till the insanity of such persons be inquired into in the manner herein directed, &c.*]

The above section was a special provision to secure King George the Third from the intrusion of insane persons, and it has not, therefore, been thought necessary to set it out here at full length, though it is still unrepealed.

THE CRIMINAL LUNATICS ACT, 1838.

1 & 2 VICT. CAP. 14.

AN ACT to Repeal so much of an Act of the Thirty-ninth and Fortieth Years of King George the Third as authorises Magistrates to commit to Gaols or Houses of Correction Persons who are apprehended under Circumstances that denote a Derangement of Mind and a Purpose of committing a Crime ; and to make other Provisions for the Safe Custody of such Persons. [30th March, 1838.]

Preamble. [The preamble to this Act (reciting 39 & 40 Geo. 3, c. 94, s. 3), was repealed by the Statute Law Revision (No. 2) Act, 1888, 51 & 52 Vict. c. 57.]

1. [This section repeals 39 & 40 Geo. 3, c. 94, s. 3.]

This section is repealed by the Statute Law Revision Act, 1874 (No. 2), 37 & 38 Vict. c. 96, but without reviving the repealed enactment.

Persons apprehended as deranged and intending to commit some crime may be sent to lunatic asylums.

2. if at any time any person shall be discovered and apprehended under circumstances that denote a derangement of mind and a purpose of committing some crime for which, if committed, such person would be liable to be indicted, it shall and may be lawful for any two justices of the peace of the county, city, borough, or place where such person shall be so apprehended, to call to their assistance a physician, surgeon, or apothecary, and if upon view and examination of the said person so apprehended, or from other proof, the said justices shall be satisfied that such person is insane or a dangerous idiot, the said justices, if they shall so think fit, by an order under their hands and seals, directed to the constable or overseers of the poor of the parish, township, or place where such person shall be apprehended, shall cause the said person to be conveyed to and placed in the county lunatic asylum, provided there be one situated within or belonging to the county in which such person shall be apprehended, and if there be no such asylum, then to some public hospital, or some house duly licensed for the reception of insane persons ; and it shall be lawful for the said justices to inquire into and ascertain, by the best legal evidence that can be procured under the circumstances of personal legal disability of such insane person or dangerous idiot, the place of the last legal settlement of such person ; and it shall and may be lawful for such two justices to make an order under their

Justices may inquire into settlement of such persons and make order for payment of their maintenance, &c.

hands and seals upon the overseers or churchwardens of such parish, township, or place where they adjudge him or her to be legally settled, to pay all reasonable charges of examining such person, and conveying him or her to such county lunatic asylum, public hospital, or licensed house, and to pay such weekly sum for his or her maintenance in such place of custody as they or any two justices shall, by writing under their hands, from time to time direct; and where such place of settlement cannot be ascertained, such order shall be made upon the treasurer of the county, city, borough, or place where such person shall have been . . . apprehended: Provided always, that nothing herein contained shall be construed to extend to restrain or prevent any relation or friend from taking such insane person or dangerous idiot under their (*sic*) own care and protection, if he shall enter into sufficient recognizance for his or her peaceable behaviour or safe custody, before two justices of the peace, or the court of quarter sessions, or one of the judges of Her Majesty's courts in Westminster Hall: Provided always, that the churchwardens and overseers of the parish in which the justices shall adjudge any insane person or dangerous idiot to be settled may appeal against any such order to the next general quarter sessions of the peace to be holden for the county where such order shall be made, in like manner and under like restrictions and regulations as against any order of removal, giving reasonable notice thereof to the clerk of the peace of the county, riding, or division, or to the town clerk of the city, borough, or place as the case may be, upon whose rates the burden of maintaining such insane person or dangerous idiot might fall, if such order should be invalid, and such clerk of the peace or town clerk shall be respondent in such appeal; which appeal the justices of the peace assembled at the said general quarter sessions are hereby authorized and empowered to hear and determine, in the same manner as appeals against orders of removal are now heard and determined.

Section 2.

Act not to prevent relations, &c., from taking such persons under their own care.

Appeal against order for maintenance.

Certain words in the above section are repealed by the Statute Law Revision Act, 1874 (No. 2), 37 & 38 Vict. c. 96, as spent.

The marginal notes to the above section are as in the second revised edition of the Statutes, vol. vi., pp. 129—131.

Scope of Enactment.—Persons are only to be apprehended under the above enactment when there are circumstances that denote a purpose of committing an indictable offence, but under section 15 of the Lunacy Act, 1890, *ante*, any lunatic found wandering at large may be apprehended, examined, and, if necessary, sent to an asylum.

Section 2.

NOTE.

The provisions of the Lunacy Act, 1890, do not generally affect criminal lunatics, see section 340 of that Act, *ante*, p. 447.

3. [*Persons proved not to be insane may be liberated.*]

This section referred only to persons in custody at the time of the passing of the Act, and is now repealed by the Statute Law Revision Act, 1874 (No. 2), 37 & 38 Vict. c. 96.

Act not to alter laws relating to the discharge of recovered lunatics, &c.

4. nothing herein contained, except where otherwise expressly mentioned, shall alter the laws relating to the discharge of persons who may cease to be insane or dangerous idiots from any county lunatic asylum, public hospital, or house duly licensed for the reception of insane persons, nor authorize the removal by any parish officer of any poor person from such asylum, public hospital, or licensed house, without an order for that purpose made by two justices of the peace for the county in which such house (*sic*) shall be situated, after due inquiry into the circumstances of the case, unless such person shall have been discharged as cured.

The words "And be it enacted that" at the commencement of this section were repealed by the Statute Law Revision (No. 2) Act, 1888, 51 & 52 Vict. c. 57.

See section 8 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, cited in the notes to section 2 of the Criminal Lunatics Act, 1800, 39 & 40 Geo. 3, c. 94, *ante*, p. 692.

Extent of Act.

5. this Act shall extend only to England and Wales.

See notes to preceding section.

6. [*Commencement of Act immediately from and after the passing thereof.*]

Before 1793, statutes which were to take effect "from and after the passing" thereof related back to the first day of the session in which they were passed: (1792), *Latless v. Holmes*, 4 T. R. 660. Then by 33 Geo. 3, c. 13, it was enacted that the date of the Royal Assent was to be indorsed on every Act, and that date was to be the date of the commencement of the Act where no other commencement was therein provided. This section was consequently superfluous and is repealed as unnecessary by the Statute Law Revision Act, 1874 (No. 2), 37 & 38 Vict. c. 96.

7. [*Act may be altered this session.*]

This is also repealed by the Statute Law Revision Act, 1874 (No. 2), 37 & 38 Vict. c. 96.

A general enactment for the alteration, amendment, or repeal of Acts in the same session was contained in section 1 of Lord BROUGHAM'S Act, 1850, 13 & 14 Vict. c. 21, now superseded by section 10 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63.

THE LUNATICS' REMOVAL (INDIA) ACT, 1851.

14 & 15 VICT. CAP. 81.

AN ACT to authorise the Removal from India of Insane Persons charged with Offences and to give better Effect to Inquisitions of Lunacy taken in India.

[7th August, 1851.]

[*This preamble and the word "that" wherever it occurs with reference to the preamble are repealed by the Statute Law Revision Act, 1892, 55 & 56 Vict. c. 19.*] Preamble.

Short Title.—The short title of this Act is enacted by section 1 and the First Schedule of the Criminal Lunatics Act, 1884, *post*, and re-enacted by the Short Titles Act, 1892, 55 & 56 Vict. c. 10.

Saving.—The provisions of this Act are not affected by the Colonial Prisoners' Removal Act, 1884, 47 & 48 Vict. c. 31. See section 16 of that Act, *post*, p. 717.

1. . . . if any person shall have been or shall hereafter be indicted for or charged with any crime or offence in any court in India, and shall have been or shall hereafter be acquitted of or not be tried for such crime or offence on the ground of his being found to be of unsound mind, and shall by reason of the premises be lawfully in custody in India, it shall be lawful for the person or persons administering the Government of the Presidency in which such person shall be so in custody to order such person to be removed from India to any part of the United Kingdom, there to abide the order of Her Majesty concerning his or her safe custody, and to give such directions for enabling such order to be carried into effect as may be deemed fit and proper.

Power to remove from India to the United Kingdom persons acquitted of crimes or not tried on the ground of insanity.

Marginal Notes.—The marginal notes to this section and throughout the Act are as in the revised edition of the Statutes, vol. xi., pp. 158—161.

Scope of Enactment.—A European British subject in India having committed homicide was placed under restraint until the district magistrate

Section 1. being informed of the fact went with witnesses to the private house where he was under restraint for the purpose of investigating the charge. After seeing him, and on affidavits from medical men that they were of opinion after examination that he was of unsound mind and not fit to take his trial, the district magistrate made a report to the Government of India. Thereupon an order was made by the Governor-General in Council directing that the lunatic should be removed to a lunatic asylum and there kept in safe custody. After his removal, an application was made to the High Court of the Presidency for his release, which was refused, the court finding that he was unfit to plead to the charge of homicide by reason of unsoundness of mind. The Governor in Council then made an order for his removal to London under this Act. On his arrival in England in the custody of the surgeon to whom the order of the Governor was directed, he was removed to Broadmoor under a warrant of the Home Secretary. From Broadmoor he was subsequently removed by Royal warrant to a private asylum to be detained during Her Majesty's pleasure. On cause shown to a rule *nisi* for a writ of *habeas corpus* it was held that the lunatic was a person who had been charged with a crime or offence in a court of India and not tried on the ground of his being found to be of unsound mind, and that his detention was lawful: *Re Maltby* (1881), 7 Q. B. D. 18; 50 L. J. Q. B. 413; 44 L. T. (N.S.) 811; 29 W. R. 678; 14 Cox C. C. 609; 45 J. P. 681.

NOTE.

Order of Government of any Presidency to be a sufficient warrant and authority for the removal.

Order for custody on arrival in United Kingdom.

39 & 40 Geo. 3, c. 94.

Expenses of removal to be charged

2. . . . the orders and directions of the said Government of any of the said Presidencies for the removal of any person under the provisions of this Act shall be a sufficient warrant and authority to all commanders of vessels and others, to whom the care and custody of any such person shall be committed, for the removal of such person from India to the United Kingdom in conformity with such directions and for his detention in custody there until an order shall be made by Her Majesty as hereinafter is mentioned; and . . . upon the arrival of any such person in the United Kingdom it shall be lawful for Her Majesty to give such order for the safe custody of such person during her pleasure in such place and in such manner as to Her Majesty shall seem fit, in like manner as if such person had been indicted for an offence and found insane, and were thereby subject to the provisions of the Act passed in the thirty-ninth and fortieth year of His late Majesty King George the Third, intituled *An Act for the Safe Custody of Insane Persons charged with Offences*.

See note to preceding section, and see also section 2 of the Criminal Lunatics Act, 1800, 39 & 40 Geo. 3, c. 94, *ante*, p. 694.

3. . . . all expenses attending the removal from India and the safe custody and maintenance in Great Britain or Ireland

of all such persons as aforesaid shall be borne and defrayed by the East India Company, who are hereby authorised to charge the amount of such expenses upon the revenues of the Government of India.

Section 3.
—
upon the
revenues of
India.

See section 10 (4) of the Criminal Lunatics Act, 1884, *post*, p. 731.

Abolition of East India Company.—By section 42 of the Government of India Act, 1858, 21 & 22 Vict. c. 106, it is enacted, amongst other things, that all sums of money, costs, charges, and expenses which if this Act had not been passed would after the time appointed for the commencement thereof have been payable by the said Company (*i.e.*, the East India Company) out of the revenues of India in respect of any liabilities then existing, and all expenses, debts, and liabilities which after the commencement of this Act shall be lawfully contracted and incurred on account of the Government of India shall be charged and chargeable upon the revenues of India alone as the same would have been if this Act had not been passed, and such expenses, debts, liabilities, and payments as last aforesaid had been expenses, debts, and liabilities lawfully contracted and incurred by the said Company.

4. . . . the amount of all expenses incurred by the East India Company in respect of the removal and custody of any such person as aforesaid shall be a debt from such person to the East India Company; and . . . for securing the payment thereof the East India Company shall be entitled to enter up against such person as of the date of the order for removal from India any judgment in England or Ireland in an amount sufficient to secure the payment of all expenses incurred and to be incurred in respect of the matters aforesaid, and the costs of ascertaining the same as after mentioned; and on production at the office in Edinburgh for the registration of writs in the books of Council and Session of a copy of any order of the Court of Directors, directing such judgment to be entered up, certified by the secretary of the said Company, such order shall be registered in the said books in like manner as a bond executed according to the law of Scotland with a clause of registration, and decree shall be interponed thereon, which shall have the like effect as if such person had executed such bond, but without prejudice to the provisions herein contained for ascertaining the sum actually due; and . . . upon application to be from time to time made to the Lord Chancellor of Great Britain in England or Chancellor in Ireland, being intrusted with the care of persons of unsound mind, or the Court of Session in Scotland, the amount of such expenses

Expenses to
be a debt due
from the
lunatic, and
be secured
by a judg-
ment in
England and
Ireland, and
by decree of
registration
in Scotland.
&c.

Section 4. reasonably and properly incurred shall be ascertained by a reference to one of the Masters of the Court of Chancery, or by a remit to the Accountant of the Court of Session, or otherwise, in such manner as the person or persons to whom such application shall be made shall direct; and the East India Company shall be entitled from time to time to recover payment of the amount so ascertained, and the costs of ascertaining the same, by proceeding on the judgment in England or Ireland, and registered order and decree in Scotland, and enforcing the same against the property, but not against the person of the debtor, in the same manner as if such judgment had at the date of the said order of removal been recovered against the debtor when of sound mind, and had been entered up at the date of such order, or as if such bond had been granted by the debtor when of sound mind at the date of such order, and had been duly registered in the books of Council and Session, and a decree of the Court of Session interponed thereto.

Abolition of East India Company.—By section 64 of the Government of India Act, 1858, 21 & 22 Vict. c. 106, all Acts concerning India then in force, shall be construed as referring to the Secretary of State in Council in the place of the East India Company. And by section 65 of the same Act, the Secretary of State in Council may sue and be sued as well in India as in England by that name as a body corporate.

Lunatics and idiots may be removed from India by orders of the Supreme Courts at the several Presidencies.

5. . . . in all cases where a guardian, keeper, or curator of the person and estate of an idiot, lunatic, or person of unsound mind shall have been or shall be appointed by the Supreme Court of Judicature at any of the Presidencies of India, it shall be lawful for such Supreme Court to declare that such person ought to be removed from India to any part of the United Kingdom, and thereupon to make such further or other order or orders authorizing or directing his removal, and touching his safe custody and maintenance, as to such Supreme Court shall seem fit and proper: Provided always, that in every such case a transcript of the proceedings in the matter of the idiocy or lunacy of such person shall, under the provisions hereinafter contained, be transmitted to that part of the United Kingdom to which such person shall be removed.

Transcript of proceedings to be transmitted to the United Kingdom

6. . . . in all cases where a guardian, keeper, or curator of the person and estate of any idiot, lunatic, or person of unsound mind shall have been or shall be appointed by any of the Supreme Courts in India as aforesaid, it shall be lawful

for the proper officer of the said Supreme Court by the order of such Court, to transmit a transcript, under the hand and seal of the Chief Justice or Senior Judge of such Supreme Court of the proceedings by which the idiotcy, lunacy, or unsoundness of mind shall have been found, and by which such guardian, keeper, or curator shall have been appointed, to the Chancery in England and the Court of Session in Scotland and the Chancery of Ireland respectively, as the case may require, and that such transcript, when so received, shall be entered as of record in the Court or Courts to which the same shall be transmitted; and in the case of any supersedeas of any such proceedings the same shall be certified and transmitted and recorded in like manner; and the record of any such proceedings or of any such supersedeas as aforesaid shall, in case and so long and so far as the Lord Chancellor of Great Britain or other persons intrusted as aforesaid, or the Court of Session in Scotland, or the Chancellor of Ireland intrusted as aforesaid, (as the case may require,) shall respectively see fit, be acted upon by him and them respectively, and be of the same force and validity, and have the same force and effect, as if such proceedings or supersedeas, or proceedings or a supersedeas to the like effect, had taken place in England, Scotland, or Ireland respectively; and it shall be lawful for the Lord Chancellor or other persons intrusted as aforesaid, the Court of Session in Scotland, and the Chancellor of Ireland intrusted as aforesaid respectively, from time to time, to make and give all such orders or directions by appointing any committee or committees, curator or curators, or otherwise, as may appear necessary or proper for securing proper care and protection to the person and estate of such idiot, lunatic, or person of unsound mind.

Section 6.

—
and entered
of record,
and to be
acted upon
as if the
proceedings
had been
taken in the
United
Kingdom.

Transmission of Record.—As to the transmission of the record, compare section 107, of the Lunacy Act, 1890, *ante*, p. 249.

Appointment of Committees.—As to appointment of committees of the person and estate, see section 108 (2) of the Lunacy Act, 1890, *ante*, p. 252.

7. the powers and authorities given by this Act to the Lord Chancellor of Great Britain or other persons intrusted as aforesaid shall and may be exercised in like manner by and are hereby given to the Lord Keeper or Commissioners of the Great Seal of Great Britain, or any other person or persons for

Powers
hereby given
to the Lord
Chancellor
shall extend
to Lord
Keeper and

Section 7. the time being intrusted as aforesaid; and the powers and authorities given by this Act to the Lord Chancellor of Ireland intrusted as aforesaid shall and may be exercised in like manner by and are hereby given to the Lord Keeper or Commissioners of the Great Seal of Ireland or any other person or persons for the time being intrusted as aforesaid.

—
Commissioners of
the Great
Seal, &c., in
England
and Ireland
respectively.

Other Persons Intrusted as aforesaid.—As to the judges of the Supreme Court for the time being entrusted by the Sign Manual with the care and commitment of the custody of the persons, see section 108 of the Lunacy Act, 1890, *ante*, p. 250.

THE CRIMINAL LUNATIC ASYLUMS ACT, 1860.

23 & 24 VICT. CAP. 75.

*AN ACT to make better Provision for the Custody and Care of
Criminal Lunatics.*

[6th August, 1860.]

[*This preamble (reciting 39 & 40 Geo. 3, c. 94, 3 & 4 Vict. c. 54, 5 & 6 Vict. c. 29, and 6 & 7 Vict. c. 26) is repealed by the Statute Law Revision Act, 1892, 55 & 56 Vict. c. 19.*] Preamble.

Short Title.—The short title of this Act is enacted by section 1 and the First Schedule of the Criminal Lunatics Act, 1884, 47 & 48 Vict. c. 64, *post*, and re-enacted by the Short Titles Act, 1892, 55 & 56 Vict. c. 10. The Act is also commonly called the Broadmoor Act.

Repeals of Recited Acts.—The provisions of section 1 of the Criminal Lunatics Act, 1800, 39 & 40 Geo. 3, c. 94, and of section 3 of the Criminal Lunatics Act, 1840, 3 & 4 Vict. c. 54, empowering Her Majesty to give order for the safe custody of any person charged with an offence and acquitted on the ground of insanity, are now superseded by section 2 of the Trial of Lunatics Act, 1883, *post*, p. 710.

The provisions of section 1 of the Criminal Lunatics Act, 1840, 3 & 4 Vict. c. 54, empowering a Secretary of State to direct the removal of a criminal lunatic to a county lunatic asylum, were repealed and superseded by the Criminal Lunatics Act, 1864, 27 & 28 Vict. c. 29, which last-mentioned Act is now itself repealed and superseded by the Criminal Lunatics Act, 1884, 47 & 48 Vict. c. 64, *post*, p. 720 *seq.*

The 5 & 6 Vict. c. 29, s. 23, under which the governors of Pentonville Prison might report convicts to the Secretary of State for removal to an asylum, is now repealed by the Statute Law Revision Act, 1874 (No. 2), 37 & 38 Vict. c. 96; and section 21 of the 6 & 7 Vict. c. 26, making similar provision as regards Millbank Prison, is repealed by the Criminal Lunatics Act, 1884, 47 & 48 Vict. c. 64.

Situation of Prison.—It may be here mentioned that by section 57 of the Prison Act, 1865, 28 & 29 Vict. c. 126, “Every prison, wheresoever situate, shall for all purposes be deemed to be within the limits of the place for which it is used as a prison.”

Section 1.

Her Majesty
may appoint
asylums for
criminal
lunatics.

1. It shall be lawful for Her Majesty from time to time, by warrant under her Royal Sign Manual, to appoint that any asylum or place in England which Her Majesty may have caused to be provided or appropriated, and may deem suitable for this purpose, shall be an asylum for criminal lunatics; and the provisions of this Act shall be applicable to every such asylum.

The Broadmoor Asylum, Crowthorne, Berkshire, appointed by warrant dated June 28, 1861, and opened in 1863, is the only asylum which has been as yet appointed under this section as an asylum for criminal lunatics.

Secretary
of State
may direct
criminal
lunatics to
be confined in
any such
asylum.

2. It shall be lawful for one of Her Majesty's principal Secretaries of State, by warrant under his hand, to direct to be conveyed to and kept in any such asylum any person for whose safe custody during her pleasure Her Majesty is authorised to give order, or whom such Secretary of State might direct to be removed to a lunatic asylum under any [*of the Acts hereinbefore mentioned, or under any other*] Act of Parliament, or any person sentenced or ordered to be kept in penal servitude who may be shown to the satisfaction of the Secretary of State to be insane [*or to be unfit from imbecility of mind for penal discipline*]; and the Secretary of State may direct to be removed to and kept in such asylum any such persons as aforesaid who, under any previous order of Her Majesty or warrant of the Secretary of State, may have been placed and remain in any county lunatic asylum, or other place of reception for lunatics; and every person directed by the Secretary of State to be conveyed or removed to and kept in an asylum under this Act shall be conveyed to such asylum accordingly, and shall be kept therein until lawfully removed or discharged; and that with every person so conveyed or removed there shall be transmitted a certificate, as set forth in Schedule A. to this Act annexed, duly filled up and authenticated; the contents of which certificate shall be transcribed into the general register to be kept in every such asylum.

Repeals.—The words printed in italics were repealed by section 17 and the Second Schedule of the Criminal Lunatics Act, 1884, 47 & 48 Vict. c. 64.

Insane Prisoners.—Under section 2 of the Criminal Lunatics Act, 1884, *post*, where there is reason to suppose that a prisoner under sentence of death is insane, the Secretary of State may order an inquiry by medical men as to his insanity, and direct his removal to an asylum or other institution for insane prisoners. If the prisoner is confined for any other

criminal offence, the inquiry may be directed by two of the visiting committee of the prison in which he is confined.

Section 2.

Imbeciles.—As to the treatment of imbeciles, see section 12 of the Criminal Lunatics Act, 1884, *post*, p. 732.

NOTE.

3. Nothing in this Act shall restrain or affect the authority of Her Majesty, where she may so think fit, to give such other order for the safe custody of any such person as aforesaid as she might have given if this Act had not been passed, or restrain or affect the authority of the Secretary of State to continue in or direct to be removed to any county asylum or other place for the reception of lunatics any of the persons aforesaid whom he might have so continued or directed to be removed if this Act had not been passed.

Act not to affect the authority of the Crown to make other provision for the custody of a criminal lunatic, &c.

4. It shall be lawful for the Secretary of State from time to time to appoint any such persons as he may think fit, being not less than three in number, to be a council of supervision for any asylum under this Act, and to remove all or any of the said council, and upon the removal, death, or resignation of any member of the said council to appoint another in his place; and also from time to time to appoint for the asylum a resident medical superintendent, a chaplain, and such other officers, assistants, and servants as he may deem necessary, and at pleasure to remove such superintendent, chaplain, officers, assistants, and servants respectively; and the Secretary of State, with the approval of [*the Commissioners of Her Majesty's*] Treasury, shall fix the salaries to be paid to the superintendent, chaplain, officers, assistants, and servants of such asylum.

Secretary of State to appoint council of supervision and officers for asylums.

Repeal.—The words in italics have been repealed by the Statute Law Revision Act, 1892, 55 & 56 Vict. c. 19.

5. It shall be lawful for the Secretary of State from time to time to make rules for the government and management of the asylum, and for the duties and conduct of the officers thereof, and for the care and treatment of the persons confined therein, and to subscribe a certificate that they are fit to be enforced; and such rules, when so certified, shall be binding on the council, and all officers, assistants, and servants of the asylum, and all other persons whomsoever, and all such rules shall be laid before Parliament within twenty-one days after they shall be certified, or if Parliament be not sitting, then within twenty-one days after the next meeting of Parliament.

Secretary of State to make rules for the government of the asylum.

Rules.—Rules for the guidance of the officers, attendants, and servants of the Broadmoor Asylum were duly made by the Secretary of State and

Section 5. laid before Parliament, pursuant to this section, and were ordered by the House of Commons to be printed on 27th July, 1863. (Sess. Papers, No. 517.) See also 18th Rep., p. 49.

NOTE.

As to future rules, see the Rules Publication Act, 1893, 56 & 57 Vict. c. 66.

Superintendent's Reports.—As to the duty of the superintendent to make periodical reports of the condition and circumstances of the criminal lunatics detained in the asylum, see section 4 (1) of the Criminal Lunatics Act, 1884, *post*, p. 722.

Duties of Superintendent on Discharge.—As to the duty of the superintendent on the discharge or expiration of the sentence of any criminal lunatic as to whose sanity he is not satisfied, see sections 6 and 7 (1) of the Criminal Lunatics Act, 1884, *post*, p. 723.

Subject to such rules council to superintend asylum.

6. Subject to the rules certified by the Secretary of State under this Act, the council of supervision shall superintend and direct the management and conduct of the asylum, and the care and treatment of the lunatics confined therein; and such council or any two of them shall from time to time, as by the rules shall be provided, and at such other times as they may think fit, report in writing to the Secretary of State in relation to the management and conduct of the said asylum and the condition thereof, and to any matters concerning the same; and if any person detained and confined as aforesaid shall be of a religious persuasion differing from that of the Established Church, a minister of such persuasion at the special request of such person or of his friends or relations shall be allowed to visit him at proper and reasonable times by application to the medical superintendent, and under such rules as may be approved of by the Secretary of State; but no such person shall be compelled to attend any of the ordinances or instructions of any religious persuasion other than his own.

7. [*Application of provisions of former Acts as to removal and discharge of lunatics.*]

This section has been repealed by section 17 and the Second Schedule of the Criminal Lunatics Act, 1884, 47 & 48 Vict. c. 64, and other provision made by section 5 of that Act, *post*.

8. [*Provision for discharge of persons confined after their term of imprisonment has expired.*]

This section was repealed and other provision as to the removal of criminal lunatics on the expiration of their sentences made by section 6 of the Criminal Lunatics Act, 1867, 30 & 31 Vict. c. 12, but that Act has itself since been repealed by section 17 and the Second Schedule of the Criminal Lunatics Act, 1884, 47 & 48 Vict. c. 64, and other provision again made by the last-mentioned Act.

9. [*Secretary of State may permit any lunatic to be absent from asylum on trial, &c.*] Section 9.

This section was applied by section 4 of the Criminal Lunatics Act, 1867, 30 Vict. c. 12, to every criminal lunatic in whatever asylum or place of confinement he might be, and to such asylum or place so far as regarded such lunatics as if it were an asylum appointed under this Act. But both this section and section 4 of the Criminal Lunatics Act, 1867, 30 Vict. c. 12, have been repealed by section 17 and the Second Schedule of the Criminal Lunatics Act, 1884, *post*, and other provisions made by that Act.

10. [*Provisions of 3 & 4 Vict. c. 54, as to expenses of conveyance and maintenance to apply to this Act.*]

This section was also applied by section 4 of the Criminal Lunatics Act, 1867, 30 Vict. c. 12, to every criminal lunatic in whatever asylum or place of confinement he might be, and to such asylum or place, as if it were an asylum appointed under this Act. But both this section and section 4 of the Criminal Lunatics Act, 1867, 30 Vict. c. 12, have been repealed by section 17 and the Second Schedule of the Criminal Lunatics Act, 1884, *post*, and other provision made by that Act.

11. In case of escape of any person confined in any asylum for criminal lunatics, he may be retaken at any time by the superintendent of such asylum, or any officer or servant belonging thereto, or any person assisting such superintendent, officer, or servant in this behalf, or any other person authorised in writing in this behalf by the Secretary of State or such superintendent, and conveyed to and received and detained in such asylum.

Lunatics escaping may be retaken by superintendent, &c.

Extension.—This section is applied by section 11 (1) of the Criminal Lunatics Act, 1884, *post*, p. 731, to every asylum or place in which criminal lunatics are confined so far as regards those lunatics, and to the criminal lunatics therein as if such asylum or place were an asylum for criminal lunatics appointed by Her Majesty in pursuance of this Act.

12. Any person who rescues any person ordered to be conveyed to any asylum for criminal lunatics during the time of his conveyance thereto, or of his confinement therein, and any officer or servant in any asylum for criminal lunatics, who through wilful neglect or connivance permits any person confined therein to escape therefrom, or secretes, or abets, or connives at the escape of any such person, shall be guilty of felony, and being convicted thereof shall be liable to be kept in penal servitude for any term not exceeding four years, or to be imprisoned for any term not exceeding two years, with or without hard labour, at the discretion of the court; and any such officer or servant who carelessly allows any such person to escape as aforesaid, shall on summary conviction before two

Punishment of persons for rescue or permitting escape.

Section 12. justices of such offence, forfeit any sum not exceeding twenty pounds nor less than two pounds.

Extension.—This section is applied by section 11 of the Criminal Lunatics Act, 1884, 47 & 48 Vict. c. 64, *post*, p. 731, to every asylum or place in which criminal lunatics are confined so far as regards those lunatics, and to the criminal lunatics therein as if such asylum or place were an asylum appointed by Her Majesty in pursuance of this Act, and any officer, servant or other person committing any such offence as here mentioned may be convicted and punished accordingly.

Mitigation of Penalty.—Notwithstanding the minimum limit imposed by this section, the fine may be reduced still lower under section 4 of the Summary Jurisdiction Act, 1879, 42 & 43 Vict. c. 49.

Punishment
of officers or
servants ill-
treating
lunatics.

13. Any superintendent, officer, nurse, attendant, servant, or other person employed in any asylum for criminal lunatics, who strikes, wounds, ill-treats, or wilfully neglects any person confined therein, shall be guilty of a misdemeanor, and shall be subject to indictment for every such offence, and, on conviction under the indictment, to fine or imprisonment, with or without hard labour, or to both fine and imprisonment, at the discretion of the court, or to forfeit for every such offence, on a summary conviction thereof before two justices, any sum not exceeding twenty pounds nor less than two pounds.

Ill-treatment.—Compare section 322 of the Lunacy Act, 1890, *ante*, p. 432, and notes thereto, as to mitigation of penalty on summary conviction.

Abuse of Female Lunatics.—And as to abuse of female lunatics, see section 324 of the same Act, *ante*, and notes, p. 434.

Commis-
sioners in
Lunacy to
visit asylums;

14. Two or more of the Commissioners in Lunacy, one at least of whom shall be a physician or surgeon, and one at least a barrister, shall, once or oftener in each year, on such day or days and at such hours of the day and for such length of time as they think fit, and also at any time when directed by the Secretary of State, visit every asylum for criminal lunatics, and shall inquire as to the condition, as well mental as bodily, of the persons confined therein, or any of them, and shall also make such other inquiries as to such asylum as to them may seem proper, or as such Secretary of State may direct.

Obstruction.—As to obstructing the Commissioners in the exercise of the powers conferred by this Act, see section 321 (1) of the Lunacy Act, 1890, *ante*, p. 431.

Special Visits.—Under section 205 of the Lunacy Act, 1890, *ante*, the Lord Chancellor in the case of a lunatic so found by inquisition, and the Lord Chancellor or Home Secretary in any other case, has power to order special visitations of lunatics or alleged lunatics, and the inspection of any place where any such person is detained.

15. The Commissioners in Lunacy shall in the month of March in every year report to one of Her Majesty's principal Secretaries of State the visits made as aforesaid in the preceding year, and all such particulars in relation to every asylum visited as aforesaid as they think deserving of notice, and shall also report in like manner in relation to any visit made by the direction of the Secretary of State as soon as conveniently may be after such visit; and a copy of every such report shall be laid before Parliament within twenty-one days after the receipt thereof, or if Parliament be not sitting then within twenty-one days after the next meeting of Parliament.

Reports of Commissioners.—See also section 162 of the Lunacy Act, 1890, 53 Vict. c. 5, *ante*, p. 306.

SCHEDULE A.

STATEMENT respecting CRIMINAL LUNATICS to be filled up and transmitted to the MEDICAL SUPERINTENDENT with every CRIMINAL LUNATIC.

Name	..	..	..	..	..
Age	..	..	..	..	..
Date of admission	..	..	..	..	..
Former occupation	..	..	..	..	..
From whence brought	..	..	..	..	..
Married, single, or widowed	..	..	..	..	..
How many children	..	..	..	..	..
Age of youngest	..	..	..	..	..
Whether first attack	..	..	..	..	..
When previous attacks occurred	..	..	..	..	..
Duration of existing attack	..	..	..	..	..
State of bodily health	..	..	..	..	..
Whether suicidal or dangerous to others	..	..	..	..	..
Supposed cause	..	..	..	..	..
Chief delusions or indications of insanity	..	..	..	..	..
Whether subject to epilepsy	..	..	..	..	..
Whether of temperate habits	..	..	..	..	..
Degree of education	..	..	..	..	..
Religious persuasion	..	..	..	..	..
Crime	..	..	..	..	..
When and where tried	..	..	..	..	..
Verdict of jury	..	..	..	..	..
Sentence	..	..	..	..	..

THE TRIAL OF LUNATICS ACT, 1883.

46 & 47 VICT. CAP. 38.

*An ACT to amend the Law respecting the Trial and Custody of
Insane Persons charged with offences.*

[25th August, 1883.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Section 1. 1. This Act may be cited as the Trial of Lunatics Act, 1883.

Short title.

Special

verdict where
accused found
guilty, but in-
sane at date of
act or omis-
sion charged,
and orders
thereupon.

2. (1.) Where in any indictment or information any act or omission is charged against any person as an offence, and it is given in evidence on the trial of such person for that offence that he was insane, so as not to be responsible, according to law, for his actions at the time when the act was done or omission made, then, if it appears to the jury before whom such person is tried that he did the act or made the omission charged, but was insane as aforesaid at the time when he did or made the same, the jury shall return a special verdict to the effect that the accused was guilty of the act or omission charged against him, but was insane as aforesaid at the time when he did the act or made the omission.

This sub-section supersedes the first clause of section 1 of the Criminal Lunatics Act, 1800, 39 & 40 Geo. 3, c. 94, and the first enacting clause of section 3 of the Criminal Lunatics Act, 1840, 3 & 4 Vict. c. 54.

At common law if a person was insane at the time of committing what would otherwise be an offence, he was entitled to be acquitted on the ground of insanity ; and by the enactments above referred to, if evidence of insanity was given, the jury were to find specially whether the prisoner was insane at the time of the commission of the offence, and declare whether he was acquitted by them on the ground of insanity.

On the motion for the second reading of the Bill for this Act the Attorney-General (Sir Henry James) explained that it had been thought advisable that some change should be made in the law with respect to the conviction

of lunatics. As the law then stood, lunatics charged with crime were found not guilty on the ground of insanity ; and it had been wisely thought that people who were only partially mad at the time they formed the resolution to commit a crime would be more deterred from so doing if the verdict was one of guilty of committing the act charged. The result, he said, would be entirely the same after verdict taken, because insane prisoners would be detained at the pleasure of the Crown, as at that time. It had been thought better that this alteration of the law should be made, and there was no reason against it : Hansard's Debates, 3rd Series, vol. 213, p. 922. Section 2.

NOTE.

This Act accordingly abolishes the verdict of acquittal on the ground of insanity, and substitutes a special verdict of guilty, but insane at the time of the commission of the offence.

If the jury are of opinion that the prisoner did not in fact do all that is by law essential to constitute the offence charged, they must find him not guilty generally, and the court has no power to order his detention, although he is obviously a lunatic : *Reg. v. Oxford* (1840), 9 C. & P. 525 ; 4 St. Tr. (N.S.) 497.

Prior to the judgment of the House of Lords in *Felstead v. Rex, infra*, if a special verdict were returned to the effect that the person was guilty of the act or omission charged, but was insane at the time when he committed the act or made the omission, the accused was held to be " a person convicted on indictment " within the meaning of section 3 of the Criminal Appeal Act, 1907, and therefore had a right of appeal : *Rex v. Ireland, C. C. A.*, [1910] W. N. 35 ; [1910] 1 K. B. 654. This finding was upheld in a more recent case, but the Court drew a distinction between the respective parts of the verdict and held that there was no right of appeal against the latter portion which was to the advantage of the accused : *Rex v. Machardy*, [1911] W. N. 193. The House of Lords has now decided that the verdict is indivisible and is tantamount to one of acquittal and is not a conviction on the indictment, and that there cannot therefore be any ground for appeal. The judgment in *Rex v. Ireland, supra*, was therefore reversed and the finding of the Court in *Rex v. Machardy, supra*, was upheld, but for totally different reasons : *Felstead v. Rex*, H. L. (E.) 10 Cr. App. R. 129 ; [1914] W. N. 179 ; 30 T. L. R. 471 ; 58 S. J. 515.

Where there is a verdict of unfitness to plead owing to insanity, there is no right of appeal, as it is not a conviction on the indictment : *Rex v. Larkins*, [1911] W. N. 118.

The grand jury ought not to try the question whether the person as to whom a bill is preferred is insane or not. If they are of opinion that the acts done were such as if they had been done by a person of sound mind would have amounted to an offence, it is their duty to find the bill ; otherwise they afford no security to the public by the confinement of the prisoner : *Reg. v. Hodges* (1838), 8 C. & P. 195.

Even though the Court has reason to believe that an appellant is insane, it cannot interfere on that ground, if he has refused to set up the defence of insanity at the trial : *Rex v. Hill, C. C. A.*, 7 Cr. App. R. 83. See also *Rex v. Atherley, C. C. A.*, [1909] W. N. 251.

Where there is conflicting evidence of insanity, the Court will not interfere on the ground that the judge took a view against insanity, if he properly

Section 2. directed the jury : *Rex v. Loake, C. C. A.*, 7 Cr. App. R. 71, and when the defence of insanity is set up, the judge is not bound to direct the jury that they may find a special verdict, if he directs them that the issue is whether the person is sane or insane : *Rex v. Coleman, C. C. A.*, 7 Cr. App. R. 65.

NOTE.

Evidence of condition of the prisoner's mind should not be called as part of the case for the Crown, nor is the defence bound to give notice that medical evidence as to the prisoner's mental condition will be called : *Rex v. Smith, C. C. A.*, 8 Cr. App. R. 72 ; *Rex v. Abramovitch*, 107 L. T. 416.

Mere mental deficiency does not necessarily entitle a jury to return a special verdict on the ground of insanity : *Rex v. Alexander, C. C. A.*, 9 Cr. App. R. 139 ; *Rex v. McLaren* (1913), 9 Cr. App. R. 107.

(2.) Where such special verdict is found, the court shall order the accused to be kept in custody as a criminal lunatic, in such place and in such manner as the court shall direct till Her Majesty's pleasure shall be known ; and it shall be lawful for Her Majesty thereupon, and from time to time, to give such order for the safe custody of the said person during pleasure, in such place and in such manner as to Her Majesty may seem fit.

This sub-section supersedes the second and third enacting clauses of section 1 of the Criminal Lunatics Act, 1800, 39 & 40 Geo. 3, c. 94, and the second and third enacting clauses of section 3 of the Criminal Lunatics Act, 1840, 3 & 4 Vict. c. 54.

(3.) (*In all such cases any two justices of the peace of the county, city, or place where such person shall have been tried, or shall be kept in custody, shall have the like power as is given by the Act of the third and fourth years of Her present Majesty, chapter fifty-four, in the cases therein mentioned, to inquire into and ascertain the last legal settlement of such person, and also to make the like order or orders for the payment of such person's maintenance and other charges as therein mentioned.*)

This sub-section was repealed by section 17 and the Second Schedule of the Criminal Lunatics Act, 1884, 47 & 48 Vict. c. 64.

See as to the expenses of maintenance of a person found guilty, but insane at the time of the commission of the offence, section 10 of the Criminal Lunatics Act, 1884, *post*, p. 729.

(4.) All provisions in any existing Act or in any rules or orders made in pursuance of any existing Act, having reference to a person or persons acquitted on the ground of insanity, shall apply to a person or persons in respect of whom a special verdict is found under this Act.

(3.) (1.) This Act shall extend to Ireland with the following modifications, that is to say, the words " the Lord Lieutenant "

Extent of
Act.

shall be substituted for “Her Majesty,” and the words “the pleasure of the Lord Lieutenant” for “Her Majesty’s pleasure.” Section 3.

By section 12 (9) of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, it is enacted that in that Act and every other Act whether passed before or after the commencement of that Act, unless the contrary intention appears, the expression “Lord Lieutenant,” when used with reference to Ireland, shall mean the Lord Lieutenant of Ireland or other Chief Governors or Governor of Ireland for the time being.

(2.) This Act shall not extend to Scotland.

4. (1.) The enactments mentioned in the schedule to this Repeal Act are hereby repealed to the extent mentioned in the third column thereof, but this repeal shall not affect any order made or thing done in pursuance of any enactment so repealed: and any such order may be carried into effect, revoked, or varied, as if made under this Act.

No Revivor of Repealed Acts.—See section 11 (1) of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, cited in the notes to section 342 of the Lunacy Act, 1890, *ante*.

(2.) Any unrepealed enactment referring to any enactment hereby repealed shall be construed to apply to the corresponding provisions of this Act.

SCHEDULE.

Schedule.

ENACTMENTS REPEALED.

Session and Chapter.	Title.	Extent of Repeal.
39 & 40 Geo. 3, c. 94.	An Act for the safe custody of insane persons charged with offences.	Section one.
1 & 2 Geo. 4, c. 33.	An Act to make more effectual provision for the establishment of asylums for the lunatic poor, and for the custody of insane persons charged with offences in Ireland.	Section sixteen.
3 & 4 Vict. c. 54.	An Act for making further provision for the confinement and maintenance of insane prisoners.	Section three.

THE COLONIAL PRISONERS' REMOVAL ACT, 1884.

47 & 48 VICT. CAP. 31.

AN ACT to make further Provision respecting the Removal of Prisoners and Criminal Lunatics from Her Majesty's possessions out of the United Kingdom.

[28th July, 1884.]

WHEREAS it is expedient to provide for the removal of prisoners undergoing sentence, and of criminal lunatics from one British possession to another British possession, or to the United Kingdom :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by authority of the same, as follows :

Preliminary.

Section 1. **1.** This Act may be cited as the Colonial Prisoners' Removal Act, 1884.

Short title.

Object of Act.—The object of this Act as described in the Memorandum prefixed to the Bill, is to authorise the removal from any British possession (including India) to the United Kingdom or to any other consenting British possession, for the purpose of undergoing the remainder of their sentences, prisoners who have been tried under the authority of Imperial Acts, or who at the time of committing the offences of which they are convicted are subject to the Army Act or the Navy Discipline Acts, and prisoners not coming under either of the foregoing categories whose health would be permanently injured by imprisonment in the possession where they are undergoing sentence, or whom it is expedient to remove for safer custody or for more efficiently carrying out their sentence. It was further stated in the Memorandum that although it was unlikely that the occasions for the exercise of the powers proposed to be created would frequently arise, cases had occurred from time to time in which the existence of such powers

would have prevented great hardship and even cruelty to Europeans sentenced to long terms of imprisonment in tropical climates. Within the last few years there had been a case of an English prisoner whose health was seriously affected by a long imprisonment in Malta ; and a case had occurred in St. Helena, one in the Falkland Islands, and another in Heligoland, in which, from the absence of proper prisons, the advisability of taking powers for an offender's removal with a view to the more efficient carrying into effect of the sentence, became very apparent.

Section 1.
NOTE.

* * * * *

Criminal Lunatics.

10. (1.) The provisions of this Act shall apply to a person in custody as a criminal lunatic in like manner, so far as consistent with the tenor thereof, as they apply to a prisoner undergoing sentence of imprisonment ; and separate regulations may be made by Her Majesty in Council under this Act in relation to criminal lunatics and (subject to those regulations) all laws and regulations in force in the part of Her Majesty's dominions in which a criminal lunatic removed or returned is for the time being in custody under a warrant issued in pursuance of this Act, shall apply to such criminal lunatic as if he had become a criminal lunatic in that part.

Application
of Act to
removal of
criminal
lunatics.

Object of Enactment.—The provisions as to criminal lunatics were inserted in the Bill as stated in the Memorandum in consequence of a then recent case in Bermuda, which showed the inconvenience of retaining such persons in some of the smaller colonies in which it is impracticable to make proper provision for their custody.

Applied Provisions.—The provisions of this Act applicable to a prisoner undergoing sentence may be summarised as follows:—By section 2 he may be removed to any British possession or to the United Kingdom—

- (1.) In case of danger to life or permanent injury to health by further imprisonment where he is ; or
- (2.) If he was in the army or navy at the time of committing the offence ;
or
- (3.) If his offence was committed wholly or partly outside the limits of the possession where he is ; or
- (4.) For safer custody ; or
- (5.) As belonging to a class of persons removable under the Act.

By section 3 he may be returned to undergo the residue of his sentence, or for discharge, unless he was in the army or navy at the date of sentence. By section 5 the removing authority is a Secretary of State acting with the concurrence of the Government of every British possession concerned. By section 6 such concurrence may be proved by writing under the hand of the Governor or the Colonial Secretary or other officer lawfully appointed in that behalf. By section 7 the removal is to be by warrant of the Secretary

Section 10. of State or of the Governor of the possession, and the return in like manner ;
 NOTE. the warrant being conclusive evidence of the facts stated in it, and that acts done in pursuance of it were done lawfully. By section 8 the party is to be dealt with in the place to which he is removed as if he had become a criminal lunatic there, but his conviction, judgment, and sentence (if any) may be questioned, and his sentence remitted and discharge ordered in the place from which he has been removed. By section 9 he may be retaken, in case of escape, like any person convicted of crime against the law of the place to which he escapes, and provision is made for the trial and punishment of any person aiding or attempting to aid the escape.

Separate Regulations.—Separate regulations as to criminal lunatics have been made under this Act by Order in Council, dated December 13, 1889. (Home Office Paper.)

(2.) Where a person, who is a criminal lunatic by reason of being unfit to be tried for an offence, is removed in pursuance of this Act, and a Secretary of State or the Government of the British possession to or from which such person was removed considers that such person has become sufficiently sane to be tried for the said offence, and requires him to be returned for trial to the British possession from which he was removed, he shall, in accordance with the regulations under this Act be returned as a prisoner to the said British possession for the purpose of being there tried for the said offence, and shall be removed thither in custody in like manner as if he had been arrested under a warrant on a charge for the said offence.

Regulations.—As to the regulations under this Act, see the preceding sub-section.

Miscellaneous.

Cost of
removal.

11. (1.) The cost of the removal of any . . . criminal lunatic under this Act, and of his maintenance while in confinement, and of his return, and of his being sent after discharge to any place, shall be paid in such manner as may be arranged between the Governments of the British possessions concerned and the Secretary of State, subject, as regards any cost to be paid out of moneys provided by Parliament, to the consent of the Commissioners of Her Majesty's Treasury.

Moneys provided by Parliament.—It was resolved in the Committee of the House of Commons, 7th July, 1884, " that it is expedient to authorise the payment, out of moneys to be provided by Parliament, of any costs of removal which may become payable under the provisions of any Act of the present session for making further provision respecting the removal of prisoners and criminal lunatics from Her Majesty's possessions out of the

United Kingdom."—Hansard's Debates, 3rd series, vol. 290, p. 373; 139 Section 11.
Comm. Journ. 339, 343, 347.

NOTE.

(2.) Nothing in this Act shall affect any power to recover the expenses of removing or returning any . . . criminal lunatic from the property of such . . . criminal lunatic or otherwise.

Maintenance out of Property.—See section 10 of the Criminal Lunatics Act, 1884, *post*, and notes, p. 729.

- 12.** If the legislature of a British possession pass any law—
- | | | | | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|------------------------------------------------------------------------------------------------------------|
| * | * | * | * | * | Power of
legislature
of British
possession
to pass laws
for carrying
Act into
effect. |
| (b.) For payment of the costs incurred in the removal, main-
tenance, return, or sending back after discharge of a
. . . criminal lunatic; or | | | | | |
| (c.) For dealing in such possession with . . . criminal
lunatics removed thereto in pursuance of this Act; | | | | | |

* * * * *

it shall be lawful for Her Majesty in Council to direct that such law or any part thereof shall with or without modification or alteration be recognised and given effect to throughout Her Majesty's dominions and on the high seas as if it were part of this Act.

* * * * *

16. (1.) * * * *

(2.) This Act shall not affect . . . any provisions con- Savings.
tained in the Act of the session of the fourteenth and fifteenth years of the reign of Her present Majesty, chapter eighty-one, intituled "An Act to authorise the removal from India of insane persons charged with offences, and to give better effect to inquisitions of lunacy taken in India."

See the Act here referred to (now called the Lunatics Removal (India) Act, 1851) *ante*, p. 697 *seq.*

See also the saving contained in section 10 (4) of the Criminal Lunatics Act, 1884, *post*, p. 731.

17. This Act shall apply to a . . . criminal lunatic who has become a criminal lunatic before the passing of this Act, in like manner as if he had . . . become a criminal lunatic after the commencement of this Act.

Application
of Act to
existing
prisoners and
criminal
lunatics.

18. In this Act, unless the context otherwise requires, the

Definitions.

Section 18. following expressions shall have the following meanings; that
— is to say,

The expression "British possession" does not include any place within the United Kingdom, the Isle of Man, or the Channel Islands, but includes all other territories and places being part of Her Majesty's dominions, and all territories and places within Her Majesty's dominions, which are not part of India and are under one legislature shall be deemed to be one British possession, and any part of India under a Governor or Lieutenant-Governor shall be deemed to be one British possession.

The expression "India" means all territories and places within Her Majesty's dominions which are subject to the Governor-General of India in Council.

The expression "legislature," where there are local legislatures, as well as a central legislature, means the central legislature only, and in every part of India means the Governor-General in Council.

The expression "Secretary of State" means one of Her Majesty's Principal Secretaries of State.

The expression "Governor" means any person or persons administering the government of a British possession, and includes the Governor-General of India and also the Governor and Lieutenant-Governor of any part of India.

The expression "Colonial Secretary" includes a person performing the like duties as a Colonial Secretary, whether known as Government Secretary, Chief Secretary to the Government, or by any other title.

The expression "prison" includes any place for the confinement or detention of prisoners whether convicted or unconvicted.

The expression "sentence of imprisonment" means any sentence involving confinement in a prison, whether combined or not with labour, and whether known as penal servitude, imprisonment with hard labour, rigorous imprisonment, imprisonment, or otherwise, and includes a sentence awarded by way of commutation as well as an original sentence passed by the court.

The expression "criminal lunatic" means a person detained in custody by reason of his having been charged with an offence, and either found to have been insane at the time

of such offence, or found or certified or otherwise lawfully proved to be unfit on the ground of his insanity to be tried for the same, and includes a person convicted of an offence and afterwards certified or otherwise lawfully proved to be insane. Section 18.

Persons found Guilty but Insane.—As to persons detained in custody by reason of having been charged with an offence and found to have been insane at the time of such offence, see the Trial of Lunatics Act, 1883, *ante*, p. 710.

Untried Insane Prisoners.—As to persons detained in custody by reason of having been charged with an offence and found or certified or otherwise lawfully proved to be unfit on the ground of insanity to be tried for the same, see section 2 of the Criminal Lunatics Act, 1800, 39 & 40 Geo. 3, c. 94, *ante*, p. 692.

Insane Convicts.—As to persons convicted of offences and afterwards certified or otherwise lawfully proved to be insane, see section 2 of the Criminal Lunatics Act, 1884, *post*, p. 720.

THE CRIMINAL LUNATICS ACT, 1884.

47 & 48 VICT. CAP. 64.

AN ACT to consolidate and amend the Law relating to Criminal Lunatics.
[14th August, 1884].

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Section 1.

Short title.

1. This Act may be cited as the Criminal Lunatics Act, 1884.

The Acts mentioned in the First Schedule to this Act are in this Act referred to and may be cited by the short titles mentioned in the third column of the said Schedule.

Order for
detention of
insane
prisoner
as criminal
lunatic.

2. (1.) Where a prisoner is certified, in manner provided in this section, to be insane, a Secretary of State may if he thinks fit, by warrant direct such prisoner to be removed to the asylum named in the warrant, and thereupon such prisoner shall be removed to and received in such asylum, and, subject to the provisions of this Act relating to conditional discharge and otherwise, shall be detained therein, or in any other asylum to which he may be transferred in pursuance of this Act, as a criminal lunatic until he ceases to be a criminal lunatic.

Manner of Certifying.—As to the manner of certifying provided by this section, see sub-sections (3), (4), and (5).

Conditional Discharge.—As to the provisions of this Act relating to conditional discharge, see section 4 (2), and section 5 (2) and (3), *post*, pp. 722, 723.

(2.) A person shall cease to be a criminal lunatic if he is remitted to prison or absolutely discharged in manner provided by this Act, or if any term of penal servitude or imprisonment to which he may be subject determines.

Remission to Prison.—As to the remitting of a criminal lunatic to prison see section 3, *post*, p. 721.

Absolute Discharge.—As to absolute discharge, see section 5 (2), *post*, p. 722.

(3.) Where it appears to any two members of the visiting committee of a prison that a prisoner in such prison, not being under sentence of death, is insane, they shall call to their assistance two legally qualified medical practitioners, and such members and practitioners shall examine such prisoner and inquire as to his insanity, and after such examination and inquiry may certify in writing that he is insane. Section 2.

Medical Practitioners.—A legally qualified medical practitioner is a medical practitioner duly registered under the Medical Act, 1858, 21 & 22 Vict. c. 90, and the Acts amending the same, and the Medical Act, 1886, 49 & 50 Vict. c. 48.

(4.) In the case of a prisoner under sentence of death, if it appears to a Secretary of State, either by means of a certificate signed by two members of the visiting committee of the prison in which such prisoner is confined, or by any other means, that there is reason to believe such prisoner to be insane, the Secretary of State shall appoint two or more legally qualified medical practitioners, and the said medical practitioners shall forthwith examine such prisoner and inquire as to his insanity, and after such examination and inquiry such practitioners shall make a report in writing to the Secretary of State as to the sanity of the prisoner, and they, or the majority of them, may certify in writing that he is insane.

(5.) The powers and duties by this section conferred and imposed on any two members of the visiting committee of a prison shall be exercised in the case of a prisoner in any prison within the jurisdiction of the Directors of Convict Prisons by the said directors or one of them, and in the case of a prisoner in any prison within the jurisdiction of the Prison Commissioners may also be exercised by the said commissioners or one of them, and in the case of a prisoner in any prison not within the jurisdiction of such directors or commissioners shall be exercised by two visitors of the prison, or by two justices of the county or place in which such prison is situate.

This sub-section, so far as regards the directors of convict prisons, supersedes section 3 of the Criminal Lunatics Act, 1864, 27 & 28 Vict. c. 29. So far as regards the Prison Commissioners, this sub-section incorporates part of section 9 of the Prison Act, 1877, 40 & 41 Vict. c. 21.

3. Where it is certified by two legally qualified medical practitioners that a person being a criminal lunatic (not being a person with respect to whom a special verdict has been returned to prison. Remitting of criminal lunatic to prison.

Section 3. that he was guilty of the act or omission charged against him, but was insane at the time when he committed the act or made the omission) is sane, a Secretary of State, if satisfied that it is proper so to do, may by warrant direct such person to be remitted to prison, to be dealt with according to law.

Periodical
report of
criminal
lunatics.

4. (1.) The superintendent of an asylum or other place in which any criminal lunatic is detained shall make a report to a Secretary of State at such times (not being less than once a year) and containing such particulars as the Secretary of State may require, of the condition and circumstances of every criminal lunatic in such asylum or place; and the Secretary of State shall, at least once in every three years during which a criminal lunatic is detained in any asylum or other place, take into consideration the condition, history, and circumstances of such lunatic, and determine whether he ought to be discharged or otherwise dealt with.

(2.) Where a criminal lunatic is conditionally discharged in pursuance of this Act, a report of his condition shall be made to a Secretary of State by such person at such times and containing such particulars as may be required by the warrant of discharge.

Transfer and
discharge
(absolute or
conditional)
of criminal
lunatic.

5. (1.) A Secretary of State may, from time to time, by warrant, direct the transfer to an asylum of any criminal lunatic detained in any other asylum or in any other place, and such criminal lunatic shall accordingly be received and detained in the asylum to which he is so transferred.

This sub-section was intended to carry out the fourth and sixth recommendations of the Departmental Committee of 1880, cited in the Introduction to this Part of the Work, *ante*, p. 679.

Lunatics not fit for Ordinary Asylum.—See the restriction on the power of the Secretary of State as regards lunatics not fit for an ordinary asylum : section 9, *post*, p. 728.

(2.) A Secretary of State by warrant may absolutely discharge any criminal lunatic, and may also discharge any criminal lunatic conditionally, that is to say, on such conditions as to the duration of such discharge, and otherwise as the Secretary of State may think fit.

Costs of Maintenance.—As to the costs of maintenance of any criminal lunatic, absolutely discharged before the expiration of any term of penal servitude or imprisonment to which he is subject, until the expiration of his sentence, or of any criminal lunatic conditionally discharged, so long as he continues subject to any conditions of discharge, see section 10(2), *post*, p. 730.

(3.) Where, in pursuance of this section, a criminal lunatic has been discharged conditionally, if any of the conditions of such discharge appear to a Secretary of State to be broken, or the conditional discharge is revoked, the Secretary of State may by warrant direct him to be taken into custody, and to be conveyed to some asylum named in the warrant; and he may thereupon be taken in like manner as if he had escaped from such asylum, and shall be received and detained therein as if he had been removed thereto in pursuance of the foregoing provisions of this Act. Section 5.

Recapture.—As to recapture in case of escape, see section 11, *post*, p. 731.

6. Where a person, being a criminal lunatic, is detained in any asylum or place, and either he is absolutely discharged or the term of penal servitude or imprisonment to which he is subject determines, it shall be the duty of the superintendent of such asylum or place, unless satisfied that the said person is sane, to take all reasonable means for his being placed under the care of some relation or friend, or in some asylum or place for the reception of lunatics. Duty of superintendent on discharge or expiration of sentence.

7. (1.) Where a person being a criminal lunatic, is detained in an asylum or other place, or being a prisoner in any prison is certified in manner provided by this Act to be insane, but has not been directed by the Secretary of State to be removed to an asylum, and it is made to appear to any justice of the peace having jurisdiction where such asylum or place or prison is situate, or being a member of the visiting committee of such prison, by notice in writing, signed by the superintendent of such asylum or place, or by the governor of such prison, either— Person ceasing to be criminal lunatic, and becoming pauper lunatic.

(a.) That such person is about to be absolutely discharged, or

(b.) That any term of penal servitude or imprisonment to which such person is subject is about to determine, and that in the opinion of such superintendent or governor such person is insane and unfit to be at large, the said justice shall examine such person and make any inquiry and take any medical or other evidence which he may deem necessary respecting him.

Existing Criminal Lunatics.—As to existing criminal lunatics at the date of the commencement of this Act, see section 14, *post*, p. 732.

Section 7. (2.) The said justice, if satisfied on such examination and inquiry that such person is insane, and a proper person to be detained under care and treatment, shall make an order for his detention as a lunatic in the asylum or place of confinement for lunatics named in the order ; and if within one month after the date of the said notice such criminal lunatic is absolutely discharged or such term of penal servitude or imprisonment determines, the said order shall thereupon take effect, and he shall be deemed to be a pauper lunatic.

Restrictions on Removal.—In the case of a person to be removed from a criminal lunatic asylum to a county or borough asylum, the justice must be satisfied by a medical certificate that the person is in such a state of insanity that he can be properly treated in an ordinary asylum, or that the visiting committee of the asylum to which he is to be removed consents to receive him : see section (9) 1, *post*, p. 728. If such consent is required, and not given, he may be removed to an asylum willing to receive him, and the costs of his removal and maintenance must be paid by the visiting committee so refusing their consent : section 9 (2), *post*, p. 728. And he is then to be deemed to have been sent to and detained in the asylum receiving him, in pursuance of section 16 of the Lunacy Act, 1890, *ante*, p. 174 : see section 9 (4), *post*, p. 729.

(3.) An order under this section shall be in such form as may be prescribed by a Secretary of State, and there shall be inserted in every such order, wherever it be possible, the name and address of one or more of the relations of the lunatic.

Prescribed Form of Order.—Forms of orders under this section have been prescribed by the Secretary of State by order, dated October 28th, 1884 (Home Office Paper).

(4.) At any time before a person for whose detention an order is made under this section is detained in an asylum or place of confinement for lunatics in pursuance thereof, such order may be amended or cancelled and a new order made by the justice who made the original order, or, if such justice is unable to act, by any other justice having jurisdiction in the same place.

Provision as
to detention
of person
becoming
pauper
lunatic.

8. (1.) Where, by virtue of an order made by a justice under this Act, a person becomes a pauper lunatic, such person shall, for the purposes of this Act, be deemed to be *primâ facie* chargeable to the union or parish in the United Kingdom in which it appears to the justice making the order that the ordinary residence of such person was situate at the time when the offence in respect of which he became a criminal lunatic was alleged

to have been committed, and, if such residence is not shown to the satisfaction of the said justice, then to such union or parish in the United Kingdom, as follows, namely,—

Section 8.

- (a.) To that in which it appears to the said justice that the said offence was alleged to have been committed; or
- (b.) If it appears that the offence was alleged to have been committed out of the United Kingdom, to that in which it appears to the said justice that such person was first apprehended for such offence; or
- (c.) If such person appears to have been so apprehended out of the United Kingdom, to that in which it appears to the said justice that such person first landed in the United Kingdom :

Provided that, if such person appears to the justice making the order to have been a man in the naval or military service of Her Majesty, or to have been the wife or infant child of a man in such naval or military service, at the time when the offence was alleged to have been committed, such person shall, for the purposes of this Act, be deemed to be *primâ facie* chargeable to the union or parish in the United Kingdom to which the man in such naval or military service appears to the said justice from the statements in the declaration made on his entry into the naval service of Her Majesty, or in his attestation paper on enlistment, or from other available information, to be by law chargeable for the purposes of the Acts relating to the relief of the poor.

This proviso carries out the latter part of the sixth recommendation of the Departmental Committee of 1880, cited in the Introduction, *ante*, p. 679.

(2.) Subject as hereinafter mentioned, an order made by a justice under this Act for the detention of a person as a lunatic shall, on such person becoming a pauper lunatic, have the same effect as an order of a justice, and medical certificate, made in pursuance of section sixty-eight of the Lunatic Asylums Act, 16 & 17 Vict. 1853, in the case of a lunatic found wandering at large in the union or parish to which such person is *primâ facie* chargeable, and all the provisions of the Lunacy Act, 1845, and of the Lunatic Asylums Act, 1853, and of any Acts amending those Acts or either of them shall apply accordingly in like manner as if such person had been sent from that union or parish :

And such person on becoming a pauper lunatic, if detained in

Section 8. an asylum or place of confinement to which lunatics may be sent in pursuance of the said Lunatic Asylums Act, 1853, shall be deemed to have been received therein in pursuance of the said order of detention, and if detained elsewhere shall be removed by a person named in the order, or any constable, to the asylum or place of confinement for lunatics named in the order, being one to which a justice can send a lunatic found wandering at large in the aforesaid union or parish :

Provided that if such pauper lunatic is certified by a legally qualified medical practitioner to be unfit for removal to such last-mentioned asylum or place of confinement, he may either be removed to and detained in any nearer asylum or place of confinement for lunatics willing to receive him, or may be detained in any asylum or place in which a criminal lunatic may be detained, but in either case he shall be deemed to have been sent to the asylum or place of confinement in which he is so detained, in pursuance of section sixty-eight of the Lunatic Asylums Act, 1853, and the expenses incurred in relation to such lunatic shall be defrayed, and the lunatic, when fit to be removed, may be removed accordingly, and where the lunatic is detained in any asylum or place to which lunatics cannot be sent in pursuance of the Lunatic Asylums Act, 1853, the provisions of the above-mentioned Acts shall apply as if such asylum or place were an asylum within the meaning of the Lunatic Asylums Act, 1853, and the council of supervision or other persons having control thereof were visitors.

Definitions of "asylum" and "criminal lunatic," section 16, *post*, p. 733.

References to Repealed Statutes.—By section 38 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, cited at length in the notes to section 342 of the Lunacy Act, 1890, 53 Vict. c. 5, *ante*, p. 455, the references in this subsection to section 68 of the Lunatic Asylums Act, 1853, 16 & 17 Vict. c. 97, must be construed as references to sections 15, 16, 17, and 19 of the Lunacy Act, 1890, *ante*, and the reference to the Lunacy Act, 1845, 8 & 9 Vict. c. 100, and the Lunatic Asylums Act, 1853, 16 & 17 Vict. c. 97, generally, and the Acts amending the same, must be construed as references to the Lunacy Act, 1890, *ante*.

Asylum.—As to the asylum or place of confinement to which a justice can send a lunatic found wandering at large, see section 27 of the Lunacy Act, 1890, *ante*, p. 187.

Expenses of Removal.—As to the expenses or removal to the asylum under the justice's order, see section 10, *post*, p. 729.

Expenses of Maintenance.—As to the expenses of maintaining the pauper lunatic after removal to the asylum under the justice's order or pending

the certificates of unfitness for removal, see section 298 of the Lunacy Act, 1890, *ante*, p. 410. Section 8.

NOTE.

(3.) Provided that in any case where the union or parish to which a person will for the purposes of this Act be deemed to be *primâ facie* chargeable is in Scotland or Ireland, the justice making an order under this Act for the detention of such person as a lunatic shall report the same to a Secretary of State, and thereupon a Secretary of State may, by warrant, direct the removal of such person upon his becoming a pauper lunatic to Scotland or Ireland, as the case may be, and if he is unfit to be removed shall cause the expenses incurred in relation to such person to be paid and they shall be paid by the same persons and out of the same funds as if he had been actually removed.

See the sixth recommendation of the Departmental Committee of 1880, cited in the Introduction to this part of this Work, *ante*, p. 679.

(4.) Where such person is removed to Scotland, he shall be removed to the general prison at Perth, and may be dealt with in the same manner as if he were a person certified to be insane in pursuance of section twenty-three of the Lunacy (Scotland) Act, 1862, and had been committed to a local prison for the place to which he is *primâ facie* chargeable. 25 & 26 Vict. c. 54.

See notes to preceding sub-section.

Removal to Asylum.—Section 23 of the Lunacy (Scotland) Act, 1862, 25 & 26 Vict. c. 54, enacts that if within fourteen days of the period when a prisoner in the said general prison would fall to be liberated by expiry of sentence or otherwise, it shall be certified on oath and conscience by two medical persons that they have personally visited and carefully examined such prisoner, and that he is insane, such prisoner may be removed back to the local prison to which he has been committed until liberated in due course of law, and such removal may be carried out in terms of the provisions of the said Prisons Administration Act [The Prisons (Scotland) Administration Act, 1860, 23 & 24 Vict. c. 105: see now the Prisons (Scotland) Act, 1877, 40 & 41 Vict. c. 53] for the removal of prisoners; and if arrangements shall have been completed for the reception of such prisoner within a lunatic asylum in any part of Scotland in which he can be lawfully received and detained, he may be removed to such asylum as if the same were such local prison, in terms of such provisions for the removal of prisoners.

(5.) Where such person is removed to Ireland he shall be removed to the central criminal lunatic asylum established in pursuance of the Central Criminal Lunatic Asylum (Ireland) Act, 8 & 9 Vict. 1845, and shall be received in the said central criminal lunatic c. 107.

Section 8. asylum, and may be dealt with in manner provided by section twelve of the Lunatic Asylums (Ireland) Act, 1875, as if he were a person therein confined whose sentence had expired ; but he shall not, by reason only that he is for the purposes of this Act deemed to be *primâ facie* chargeable to any union or parish, be deemed for the purposes of the said section to belong to the district comprising such union or parish.

38 & 39 Vict.
c. 67.

Removal to District Asylum.—Section 12 of the Lunatic Asylums (Ireland) Act, 1875, 38 & 39 Vict. c. 67, provides that it shall be lawful for the Lord Lieutenant to order that any person confined in the Central Criminal Lunatic Asylum established in pursuance of the Act of 1845, who shall not have been duly certified to be of unsound mind, shall, on the expiration of his sentence, be removed to the district lunatic asylum established for the district to which it shall appear to the said Lord Lieutenant that such person properly belongs, and to determine to which county or county of a city or town comprised in such district the maintenance of such person in the district asylum shall be charged ; and every such person, when so removed, shall be regarded and treated in all respects as if he had been admitted into such asylum as an ordinary patient, and may be by the governors thereof in their discretion discharged or placed in the care of his friends in the same manner as any ordinary patient.

Restriction
on power of
Secretary of
State as re-
gards lunatics
not fit for
ordinary
asylum.

9. With respect to the transfer by warrant of a Secretary of State, and the removal by order of a justice under this Act, of a person from an asylum for criminal lunatics appointed by Her Majesty, in pursuance of the Criminal Lunatic Asylums Act, 1860, to an asylum within the meaning of the Lunatic Asylums Act, 1853, the following provisions shall have effect :

- (1.) The Secretary of State or justice shall be satisfied either, by a certificate from a legally qualified medical practitioner, that the said person is in such a state of insanity that he can be properly treated in an ordinary asylum, or that the committee of visitors of the asylum to which the said person is proposed to be transferred or removed consents to receive him ;
- (2.) If the said person becomes a pauper lunatic under this Act and the consent to receive him of the committee of visitors of the asylum is required, and is not given, he may be removed to and detained in any asylum or place in which lunatics may be detained which is willing to receive him, and the costs of his removal to and maintenance in such asylum or place shall be defrayed by the said committee of visitors ;

(3.) Where the said person has been transferred to any such asylum as a criminal lunatic, and the committee of visitors of the asylum satisfy a Secretary of State that the said criminal lunatic is in such a state of insanity that he cannot be properly treated in the said asylum, and request the Secretary of State to transfer him to some other asylum, the Secretary of State shall so transfer him, and the costs of that transfer shall be defrayed by the said committee of visitors ;

Section 9.

(4.) Where a pauper lunatic under this section is removed to and detained in any asylum or place in consequence of the committee of visitors of an asylum not consenting to receive him, such pauper lunatic shall be deemed to have been sent to and to be detained in the said asylum or place, in pursuance of section sixty-eight of the Lunatic Asylums Act, 1853.

16 & 17 Vict.
c. 97.

Reference to Repealed Enactment.—By section 38 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, cited at length in the notes to section 342 of the Lunacy Act, 1890, *ante*, p. 455, the reference in this sub-section to section 68 of the Lunatic Asylums Act, 1853, 16 & 17 Vict. c. 97, must be construed as a reference to sections 15, 16, 17 and 19 of the Lunacy Act, 1890, *ante*.

(5.) Any costs directed by this section to be defrayed by a committee of visitors shall be a simple contract debt of such committee of visitors, and shall be paid as part of the general expenses of the asylum.

By section 176 (2) of the Lunacy Act, 1890, *ante*, a visiting committee may sue and be sued in the name of their clerk, and an action by or against a visiting committee shall not abate by the death or removal of the clerk, but the clerk for the time being shall always be deemed the plaintiff or defendant in the action.

Under section 273 of the same Act, *ante*, the general expenses of the asylum are payable out of the county or borough fund of the local authority or authorities providing the asylum.

10. (1.) Subject as in this section mentioned, all expenses incurred under this Act in relation to a criminal lunatic while detained in an asylum, and all expenses of removing a person on his becoming under this Act a pauper lunatic to an asylum or place of confinement for lunatics in any part of the United Kingdom, shall be defrayed out of moneys provided by Parliament, and the costs of maintenance of a criminal lunatic in any

Provision
as to expenses
of main-
tenance of
criminal
lunatic.

Section 10. asylum within the meaning of the Lunatic Asylums Act, 1853, shall be at the same rate as if he was a lunatic sent from a union or parish situate elsewhere than in the county or borough to which the asylum belongs.

16 & 17 Vict.
c. 97.

Definitions of "expenses incurred under this Act in relation to a criminal lunatic," "asylum," "criminal lunatic," and "costs of maintenance," section 16, *post*, p. 733.

This section supersedes the provisions formerly made by section 2 of the Criminal Lunatics Act, 1840, 3 & 4 Vict. c. 54, section 10 of the Criminal Lunatics Act, 1860, 23 & 24 Vict. c. 75, sections 4 and 5 of the Criminal Lunatics Act, 1864, 27 & 28 Vict. c. 29, and section 2 (3), of the Trial of Lunatics Act, 1883, 46 & 47 Vict. c. 38; and carries out the ninth recommendation of the Departmental Committee of 1880, cited *ante*, p. 680, and a resolution in the Committee of the House of Commons, 4th July, 1884, on the expenses of criminal lunatics, "that it is expedient to authorise the payment out of moneys provided by Parliament of the expenses of the detention of criminal lunatics in, and of removing pauper lunatics to, an asylum, and of contributions towards the cost of maintenance, &c., of discharged criminal lunatics under the provisions of any Act of the present Session to consolidate and amend the law relating to criminal lunatics."—Hansard's Debates, 3rd series, vol. 290, p. 75; 139 Comm. Journ. 336, 340, 344.

Reference to Repealed Act.—By section 38 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, cited in the notes to section 342 of the Lunacy Act, 1890, *ante*, p. 455, the reference in this section to the Lunatic Asylums Act, 1853, 16 & 17 Vict. c. 97, must now be construed as a reference to the Lunacy Act, 1890.

Rate of Maintenance.—As to the rate of the expenses of maintenance of a lunatic sent from a union or parish situate elsewhere than in the county or borough to which the asylum belongs, see section 283 (3) of the Lunacy Act, 1890, *ante*, p. 391.

(2.) Where a person, being a criminal lunatic, is absolutely discharged before the expiration of any term of penal servitude or imprisonment to which he is subject, or is conditionally discharged in pursuance of this Act, the Commissioners of Her Majesty's Treasury may from time to time contribute, out of moneys provided by Parliament, such sum or sums, on the recommendation of a Secretary of State, as they from time to time think fit towards the costs of the maintenance of such person, until the expiration of the said sentence, or so long as he continues to be subject to any conditions of discharge (as the case may be).

As to discharge, absolute or conditional, see section 5, *ante*, p. 722.

(3.) Section one hundred and four of the Lunatic Asylums Act, 1853, with respect to the application of the property of a lunatic for his maintenance and for the other charges in the said section mentioned, and the other sections of the Lunatic Asylums Act, 1853, which are ancillary to the said section one hundred and four, shall extend to a criminal lunatic, wherever he may be detained, and to his property, in like manner as if the said sections were herein re-enacted and in terms made applicable thereto, and any power exercisable by justices under the said section may, for the purposes of this section, be exercised by two justices of the county or place where such lunatic is detained.

The Lord Chancellor, or other authority having power to make orders with respect to the property of a lunatic, under sections twelve, thirteen, and fourteen of the Lunacy Regulation Act, 1862, shall, if satisfied by affidavit or otherwise that a person is or has been a criminal lunatic, and continues to be insane and to be in confinement have power to make any such order with respect to the property of such person and the application thereof for the maintenance or benefit of him or his family, or for carrying on his trade or business, as may be made in pursuance of the said sections of the Lunacy Regulation Act, 1862.

References to Repealed Enactments.—By section 38 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, cited in the notes to section 342 of the Lunacy Act, 1890, *ante*, p. 455, the reference in this section to section 104 of the Lunatic Asylums Act, 1853, 16 & 17 Vict. c. 97, must now be construed as a reference to section 299 of the Lunacy Act, 1890, *ante*, and the reference to sections 12, 13, and 14 of the Lunacy Regulation Act, 1862, 25 & 26 Vict. c. 86, as a reference to section 116 (1) (f) of the Lunacy Act, 1890, *ante*. As to the cost of maintenance to be recovered by the Crown, see *Re J.*, [1909] 1 Ch. 574.

(4.) When the criminal lunatic was a person removed from India in pursuance of the Lunatics Removal (India) Act, 1851, 14 & 15 Vict. all expenses attending the removal of any such person from India, and his safe custody and maintenance, shall continue to be defrayed in the same manner as if this Act had not been passed.

See section 3 of the Lunatics Removal (India) Act, 1851, *ante*, p. 697.

11. (1.) Sections eleven and twelve of the Criminal Lunatic Asylums Act, 1860, shall apply to every asylum or place in which criminal lunatics are confined so far as regards those lunatics, and to the criminal lunatics in such asylum or place, in all respects as if such asylum or place were an asylum for criminal lunatics appointed by Her Majesty in pursuance of

Recapture of escaped lunatic, and punishment for rescuing or aiding to escape.

Section 11. that Act, and any officer, servant, or other person committing any such offence as is mentioned in the said section twelve shall be liable to be convicted and punished accordingly.

See sections 11 and 12 of the Criminal Lunatic Asylums Act, 1860, *ante*, p. 707.

(2.) If a person escapes while being conveyed to an asylum or place in pursuance of this Act he may be re-taken at any time, in like manner as if he had escaped from the said asylum.

Treatment of imbeciles.

12. A Secretary of State may from time to time make, and when made revoke and vary, regulations for the treatment of persons sentenced to or ordered to be kept in penal servitude or imprisonment who appear, in accordance with the said regulations, to be from imbecility of mind either unfit for penal discipline or unfit for the same penal discipline as other prisoners.

The Departmental Committee of 1880 reported that it had been admitted in evidence by Dr. Gover, the Medical Inspector of Government Prisons, that sub-section 3 of section 2 of the Criminal Lunatics Act, 1867, 30 Vict. c. 12, which included among criminal lunatics for the purposes of that Act "any person sentenced or ordered to be kept in penal servitude who may be shown to the satisfaction of the Secretary of State to be unfit from imbecility of mind for penal discipline," was, for all practical purposes, entirely disregarded. Although the discipline of the imbeciles coming apparently under this section was in different degrees modified, the imbeciles themselves were never certified as lunatics, and the provisions of the Act were, so far as regarded them, a dead letter. The committee considered that these provisions should for the future be enforced.

This section was accordingly passed to give effect to the above recommendation and supersedes the enactment above referred to, and also the words relating to such persons contained in section 2 of the Criminal Lunatics Act, 1860, 23 & 24 Vict. c. 75, which are repealed by this Act.

Saving of authority of Crown to make orders.

13. Nothing in this Act shall restrain or affect the authority of Her Majesty, where She may so think fit, to make any order with respect to any person for whose safe custody during Her pleasure Her Majesty is by law authorised to give order.

King's Pleasure Lunatics.—As to persons for whose safe custody during His pleasure His Majesty is by law authorised to give order, see section 2 of the Criminal Lunatics Act, 1800, *ante*, p. 692, and section 2 of the Trial of Lunatics Act, 1883, *ante*, p. 710.

See also section 3 of the Criminal Lunatic Asylums Act, 1860, *ante*, p. 705.

Provision as to existing criminal lunatics.

14. (1.) Subject as hereinafter provided, this Act shall apply to any person who at the commencement of this Act is, in pursuance of the Acts relating to criminal lunatics, detained in an asylum or place of confinement for lunatics; provided that any such person detained in pursuance of section 6 of the

Criminal Lunatics Act, 1867, shall on the commencement of this Act be deemed to be a person who has become under this Act a pauper lunatic. Section 14.
30 & 31 Vict.
c. 12.

As to persons becoming pauper lunatics under this Act, see sections 7 and 8, *ante*, pp. 723, 724.

(2.) An order under this Act for the detention of any person as a pauper lunatic may be made before the commencement of this Act, but shall not take effect until such commencement.

As to the commencement of this Act, see section 18, *post*, p. 735.

15. A warrant of a Secretary of State under this Act may be under the hand of a Secretary of State or of an Under Secretary of State, and may be executed by the person to whom it is addressed, or by any constable; and such warrant when it relates to a person not in custody may be executed in like manner as if it were a warrant for the arrest of a person charged with an offence, and it shall be the duty of every constable to aid in the execution of every warrant of a Secretary of State under this Act. Making and
execution of
warrant of
Secretary of
State.

See the fifth recommendation of the Departmental Committee of 1880 cited in the Introduction to this Part of this Work, *ante*, p. 679.

The warrant it may be observed may be under the hand of a Secretary of State or of an Under Secretary, but the signature of an Assistant Under Secretary is not sufficient: *Reg. v. Marshall* (1885), 49 J. P. 105.

16. In this Act, if not inconsistent with the context, the following words and expressions have the meanings hereinafter assigned to them respectively; that is to say, Interpreta-
tion of terms.

“Criminal lunatic” means any of the following persons:—

(a.) Any person for whose safe custody during Her Majesty’s pleasure Her Majesty or the Admiralty is authorised to give order; and

(b.) Any prisoner whom a Secretary of State or the Admiralty has in pursuance of any Act of Parliament directed to be removed to an asylum or other place for the reception of insane persons:

“Prison” means any prison or place of confinement to which a person may be committed whether on remand or for trial, safe custody, or punishment, or otherwise, under any other than civil process; and “prisoner” means any person so committed:

“Secretary of State” means one of Her Majesty’s Principal Secretaries of State:

Section 16. See the definition cited from section 12 (3) of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, in the notes to section 33 of the Lunacy Act, 1890, *ante*, p. 194.

“The Admiralty” means the Lord High Admiral of the United Kingdom, or any two or more of the Commissioners for executing the office of Lord High Admiral of the United Kingdom :

A slightly differing definition is given in section 12 (4) of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, whereby it is enacted that in that Act and in every other Act whether passed before or after the commencement of that Act, unless the contrary intention appears, the expression “the Admiralty” shall mean the Lord High Admiral of the United Kingdom for the time being, or the Commissioners for the time being executing the office of Lord High Admiral of the United Kingdom.

“Superintendent” includes any person in charge of an asylum or other place for the confinement of lunatics :

“Asylum” means an asylum within the meaning of the Lunatic Asylums Act, 1853, and an asylum for criminal lunatics appointed by Her Majesty in pursuance of the Criminal Lunatic Asylums Act, 1860, and includes a hospital registered for the reception of lunatics, but does not include a licensed house ; provided that a hospital registered as aforesaid shall not be under any obligation by virtue of this Act to receive any criminal lunatic ;

16 & 17 Vict.
c. 97.

23 & 24 Vict.
c. 75.

Reference to Repealed Act.—By section 38 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, cited in the notes to section 342 of the Lunacy Act, 1890, *ante*, p. 455, the reference in this section to the Lunatic Asylums Act, 1863, 16 & 17 Vict. c. 97, must now be construed as a reference to the Lunacy Act, 1890, *ante*.

Licensed Houses.—As to the exception of a licensed house, see the eighth recommendation of the Departmental Committee of 1880, *ante*. Criminal lunatics, however, are at times ordered to be confined in Licensed Houses.

“Costs of maintenance” include, in relation to any lunatic, the cost of the lodging, clothing, medicine, and care of such lunatic ; and “expenses incurred under this Act in relation to a criminal lunatic” shall be deemed to include the costs of his maintenance as so defined.

Repeal.

17. The Acts mentioned in the Second Schedule to this Act are hereby repealed, as from the commencement of this Act, to the extent shown in the third column of the said schedule ; but this repeal shall not affect any warrant issued, or order made, or thing done in pursuance of any enactment so repealed.

See section 11 of the Interpretation Act, 1889, 52 & 53 Vict. c. 63, cited **Section 17.**
in the notes to section 342 of the Lunacy Act, 1890, *ante*, p. 455.

NOTE.

18. This Act shall, save as in this Act otherwise provided, come into operation on the first day of November, one thousand eight hundred and eighty-four, which day is in this Act referred to as "the commencement of this Act." Commence-
ment and
extent of
Act.

Save as in this Act otherwise expressly provided, this Act shall not extend to Scotland or Ireland.

As regards Scotland and Ireland, see sections 8 and 10, *ante*, pp. 724, 729.

THE FIRST SCHEDULE.

Schedule 1.

Session and Chapter.	Title.	Short Title.
8 & 9 Vict. c. 100.	An Act for the regulation of the care and treatment of lunatics.	The Lunacy Act, 1845.
8 & 9 Vict. c. 107.	An Act for the establishment of a central asylum for insane persons charged with offences in Ireland; and to amend the Act relating to the prevention of offences by insane persons, and the Acts respecting asylums for the insane poor, in Ireland; and for appropriating the lunatic asylum in the city of Cork to the purposes of a district lunatic asylum.	The Central Criminal Lunatic Asylum (Ireland) Act, 1845.
14 & 15 Vict. c. 81.	An Act to authorise the removal from India of insane persons charged with offences, and to give better effect to inquisitions of lunacy taken in India.	The Lunatics Removal (India) Act, 1851.
23 & 24 Vict. c. 75.	An Act to make better provision for the custody and care of criminal lunatics.	The Criminal Lunatic Asylums Act, 1860.
25 & 26 Vict. c. 54.	An Act to make further provision respecting lunacy in Scotland.	The Lunacy (Scotland) Act, 1862.

Schedule 2.

THE SECOND SCHEDULE.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
3 & 4 Vict. c. 54.	An Act for making further provision for the confinement and maintenance of insane prisoners.	The whole Act.
6 & 7 Vict. c. 26.	An Act for regulating the prison at Millbank.	Section twenty-one.
16 & 17 Vict. c. 96.	An Act to amend an Act passed in the ninth year of Her Majesty "for the regulation of the care and treatment of lunatics."	Section thirty-eight from and including the words "save as hereinafter provided;" to the end of that section.
23 & 24 Vict. c. 75.	An Act to make better provision for the custody and care of criminal lunatics.	Section two, the words "of the Acts hereinbefore mentioned, or under any other," and the words "or to be unfit from imbecility of mind for penal discipline." Sections seven, nine, and ten.
25 & 26 Vict. c. 86.	The Lunacy Regulation Act, 1862.	Section fifteen.
27 & 28 Vict. c. 29.	An Act to amend the Act third and fourth Victoria, chapter fifty-four, for making further provision for the confinement and maintenance of insane prisoners.	The whole Act.
29 & 30 Vict. c. 109.	The Naval Discipline Act, 1866.	Section eighty, so far as relates to a person imprisoned in England.
30 & 31 Vict. c. 12.	The Criminal Lunatics Act, 1867.	The whole Act.
32 & 33 Vict. c. 78.	The Criminal Lunatics Act, 1869.	The whole Act.
44 & 45 Vict. c. 58.	The Army Act, 1881.	In section one hundred and thirty so much of sub-section five as relates to a person imprisoned in England.
46 & 47 Vict. c. 38.	The Trial of Lunatics Act, 1883.	Sub-section three of section two.

PART III.

THE MENTAL DEFICIENCY ACT, 1913.

INTRODUCTORY.

Introduct.

THE Mental Deficiency Act was designed for the purpose of ^{Object of Act.} gaining control over classes of mentally defective persons, for whom no supervisory powers existed beyond the Idiots Act, 1886, which statute (repealed by this Act) only made provision for the care and control of idiots and imbeciles, and the Lunacy Acts, 1890—1911, which apply to idiots and persons of unsound mind.

To fulfil the legal meaning of unsoundness of mind (*a*) some marked symptoms of insanity are needed, and these may not be present in the “defective” whose mental weakness, habits or propensities nevertheless are such as to bring him within the provisions of this Act.

At p. 2, Part I. of the Sixty-eighth Report of the Commissioners in Lunacy, the Board refers to the various grades of mental deficiency, in the following terms:—“The definition of ‘defectives’ contained in section 1 of the Mental Deficiency Act, includes—(*a*) idiots, (*b*) imbeciles, (*c*) feeble-minded, (*d*) moral imbeciles; the mental defect of all these classes being primarily regarded as congenital in character. As, however, the definition of ‘lunatic’ in section 341 of the Lunacy Act, 1890, as ‘an idiot or person of unsound mind,’ is unrepealed, there remain certain classes of mental defectives, *e.g.*, idiots and imbeciles, who will be liable to be dealt with either under the Lunacy Acts or under the Mental Deficiency Act.”

The Act treats respectively of the power and manner of ^{Divisions of Act.} dealing with defectives (sections 1—20), of the Central and

(*a*) See *R. v. Shaw*, 1 L. R. 1 C. C. R. 145.

Introduct. Local Authorities who are to be the administrative authorities (sections 21—34), of the Certification and Provision of Institutions (sections 35—50), and there are provisions of a general nature dealing with Offences, Legal Proceedings, &c. (sections 51—72).

Power to deal with idiots and imbeciles, section 2 (a), section 3.

Defectives may be dealt with at the instance of their parents or guardians, if they are idiots or imbeciles, and can be removed to institutions or placed under guardianship, if two medical certificates are obtained, of which, one, must be from the medical practitioner approved by the local authority.

Defectives under 21, section 2 (a), section 3.

Defectives under 21 years of age can be dealt with at the instance of their parents. The medical certificates are required, as in the case of an idiot or imbecile, and in addition, a certificate of a judicial authority.

Defectives not being idiots or imbeciles or under 21, section 4 and section 2 (b).

Defectives, other than idiots, imbeciles, and those under the age of 21 referred to in the preceding paragraph, may be dealt with in three ways :—(a) By the order of a judicial authority, which is obtained on petition presented under this Act, which applies to all classes of defectives who are found neglected, abandoned or without visible means of support, or cruelly treated ; and to female defectives who are in receipt of poor relief at the time of giving birth to an illegitimate child, or when pregnant of such child. (b) By an order of a court, applicable to defectives found guilty of a criminal offence (punishable in the case of an adult with imprisonment or penal servitude), or to a child liable to be ordered to be sent to a certified industrial school, or to those who are habitual drunkards within the meaning of the Inebriates Acts, 1879—1900. (c) By an order of the Secretary of State, in the case of the removal of defectives detained in a prison, criminal lunatic asylum, reformatory, &c.

PROCEDURE ON PETITION.

Petitions and Orders, sections 5, 6.

The procedure by petition closely resembles that adopted under the Lunacy Act of 1890. It may be presented by any relative or friend over 21 years of age of an alleged defective or by any officer of the local authority ; it must be accompanied by two medical certificates, or by a certificate that a medical examination was impracticable, and by a statutory declaration, which must all be in accordance with the provisions of the Act and the regulations. If it is not presented by a relative or by

an officer of the local authority, it must contain a statement of the reasons why the petition is not presented by a relative, and of the circumstances under which the petitioner acts. The judicial authority must interview the alleged defective (here departing from the provisions of the Lunacy Act, which makes the interview optional), and, if satisfied that he is a defective, may make an order for his detention in an institution or appoint a guardian, or adjourn the application. He may also dismiss the petition. Introduct.

In cases where the petition is not presented by the parent or guardian, an order should not be made without the consent in writing of such parent or guardian, unless the judicial authority is satisfied that such consent has been unreasonably withheld. Section 6 (3)
(a).

ORDER OF A COURT.

On conviction by a court of competent jurisdiction of any person of any criminal offence punishable in the case of an adult with penal servitude or imprisonment, or of a child brought before the court, under section 58 of the Children's Act, 1908, the court, if it is satisfied that such prisoner is a defective, may make any order that a judicial authority may make, or it may remit the case to a judicial authority. Order by
court on
conviction,
section 8.

ORDER OF SECRETARY OF STATE.

The Secretary of State upon being satisfied by the certificates of two medical practitioners that a person undergoing imprisonment is a defective, may direct his removal to an institution for defectives or place him under guardianship, and any order so made shall have the like effect as if it had been made by a judicial authority upon petition. Removal by
order of
Secretary of
State, section
9.

DURATION OF ORDERS.

An order that a defective be sent to an institution, or placed under guardianship expires at the end of one year (subject to the provisions of sub-section 1 of section 11), but it may be continued for successive periods of five years if the Board, after considering the special reports made by the visitors and the medical practitioner of the institution, and in any other case by a medical practitioner, thinks advisable. Defectives under age are entitled to a reconsideration of their case on attainment Orders may
be kept in
force after
one year.
section 11.

Introdut. of their majority, and if the visitors do not order their discharge, there is a right of appeal to the Board. This right of appeal will lapse if not exercised within 14 days after the decision of the visitors has been communicated to the defective or his parent or guardian.

Duration of detention not under judicial orders, section 12 (1). Defectives placed in institutions or under guardianship by their parent or guardian may be removed upon such parent or guardian giving notice in writing to the Board, unless the Board considers it necessary in the interest of the defective that he should continue under supervision; if the Board comes to such decision no further notice by the parent or guardian shall be allowed till after the expiration of six months from the last previous notice.

RECOVERY OF EXPENSES.

Sections 13, 14, 15. The Act contains provision for the recovery of expenses from the defective or any person liable for maintenance, and the expenses of removal of a defective to a workhouse pending the presentation of petition.

PROVISIONS AS TO RELIGIOUS PERSUASION.

Section 17. Extensive provisions are contained in the Act for the benefit of the defective to enable him to receive religious ministrations and instruction according to his religious persuasion.

JUDICIAL AUTHORITIES.

Section 19. The judicial authorities consist of any judge of county courts, police or stipendiary magistrate, or specially appointed justice who is a judicial authority for the purposes of the Lunacy Acts, 1890—1911.

REGULATIONS.

Regulations made by the Home Secretary were issued respectively on 2nd April and on 1st May, 1914.

Duties of local authorities. The duties of local authorities are dealt with under five headings. They relate to the ascertainment of defectives who are subject to be dealt with, their subsequent supervision, the provision of institutions for their reception, and the reports to be made by the local authorities concerning the performance of their duties under the Act.

These reports may be such as are desired by the Board, but **Introduc-**
 by the regulations every local authority shall before the month
 of June in every year, furnish to the Board a report up to the
 end of the preceding December, which shall contain *inter alia*
 a statement of the condition and management of any institutions
 which they may have provided either alone, or in combination
 with another local authority. There shall also be embodied
 financial statements, and statistical tables relative to the
 patients in such form as may be approved by the Board,
 made up respectively to the preceding 31st March and 31st
 December.

Details will also be required in the report, as to the total
 number dealt with in the year, the numbers of admissions,
 removals and deaths, and various particulars concerning
 employment, recreation and industrial training, &c.

The procedure to be followed on the presentation of petitions **Procedure**
 is the subject of regulations, under the heading of "Procedure on presenta-
 on Petitions," and subject to necessary additions, the practice tion of
 under the Lunacy Acts is so closely followed here as elsewhere petitions.
 that any deviation therefrom is immediately apparent.

Persons desirous of obtaining certificates for certified institu- **Granting of**
 tions, and certified houses for defectives, must make an applica- licenses.
 tion to the Board of Control. The request must contain the
 particulars set forth in the regulations as to the locality of the
 proposed institution or house with plans of the site and buildings,
 the number of patients whom it is proposed to receive, and
 details as to the proposed work upon which the patients are
 to be employed, together with the name of the proposed super-
 intendent and particulars of the staff, &c.

The effect of the revocation of a license or approval is pro-
 vided for, and provisions regulate the fees to be paid upon the
 granting of a license.

Special regulations are prescribed for the granting, renewal
 and revocation of approvals of homes for defectives.

General and special regulations are enacted for the manage- **Management**
 ment of certified institutions, certified houses and approved of institu-
 homes. The general regulations provide for the classification tions, certified
 of patients according to their age, sex, capabilities, habits and houses, and
 behaviour, and for their treatment, for the keeping of registers approved
 of admissions, removals, transfers, discharges and deaths, homes.
 registers of mechanical restraint, case books, &c. The notices

- Introduct.** — and copies of reports to be sent to the Board of Control by the superintendents of certified institutions, houses, and approved homes are also set out. Provisions are inserted regulating the control of correspondence of defectives who are accorded the right of having their letters forwarded unopened to the Lord Chancellor, a Secretary of State, a Commissioner to the Board of Control, and to various other officials and persons duly enumerated. There are also directions governing the visitation of defectives by their relatives or friends. The special regulations provide for the management of certified institutions of local authorities, of incorporated or unincorporated bodies, societies, or associations, and of those belonging to private individuals, and also for the management of certified houses. These regulations *inter alia* provide for the feeding, clothing, &c., of the inmates, and for the repair of buildings, for the giving of religious instruction, the preparation of statistics, and general management.
- Inspection.** There are regulations for the inspection of certified houses, institutions and approved homes by Government inspectors. The visitation of the patients by the visitors is made the subject of further provisions.
- Visitation and correspondence.** Provisions are also incorporated relative to the powers and duties of guardians, and there are special regulations respecting the visitation and correspondence of patients under guardianship.
- Board of Education regulations.** Regulations in accordance with section 2 (2) of the Act have been issued, dated 24th March, 1914, under cover of a circular letter from the Board of Education, dated 30th March, 1914, these will be found in Appendix II., and deal with the questions of appointment of school medical officers and with the certification of children by reason of mental defect.
- Secretary of State's regulations.** Provisional regulations dated 20th March, 1914, have also been made by the Secretary of State for the Home Department, with the concurrence of the Local Government Board, under section 30 (2), and provisional regulations bearing the same date have been issued by the same official, with the concurrence of the Lord Chancellor under section 30 (3) of the Act. The former regulations deal with the care of pauper defectives who are being provided for under the poor law, but with regard to whom there are special reasons for dealing with them under the Act. The latter deal with the obligation of local authorities

under the Mental Deficiency Act in connection with defectives, **Introduct.** who are for the time being, or who might be provided for under the Lunacy Acts, 1890—1911. (See Appendix II.)

CENTRAL AND LOCAL AUTHORITIES.

Part II. of the Act deals with Central and Local Authorities ; sections 21—26 refer to the general powers and duties of the central authorities, and sections 27—34 deal with the responsibilities of local authorities.

The central authority under the Act is called the Board of Control. It is charged with all matters concerning general superintendence, supervision, protection, and control of defectives. This Board is to consist of not more than fifteen Commissioners, of whom not more than twelve shall be paid. Four of the paid Commissioners must be either barristers or solicitors of at least five years' standing, and four at least must be duly qualified medical practitioners, also of five years' standing, and one each of the paid and unpaid Commissioners must be a woman. From the Board of the Commissioners the Secretary of State appoints a chairman.

The Act also gives power of appointment by such Board of an Administrative Committee, subject to the direction of the Secretary of State to carry out such power, and assigns to the committee of the Board, powers of supervision over local authorities, the certification and approval of premises, the provision and maintenance of State institutions, the administration of parliamentary grants, and such other powers and duties as the Secretary of State or Board may direct. All these powers are set out in the schedule of the Act, and are subject to any regulations which may be made by the Secretary of State.

The local authority charged with duties which are largely optional, but in some cases obligatory in connection with the administration of the Act is, in counties, the County Council, and in boroughs, the Borough Council.

It shall be the duty of every local authority to constitute a committee for the purposes of the Act, under the title of "The Committee for the care of the Mentally Defective." This committee shall consist of such members of the council, as the council may determine, and of such other persons, either poor law guardians, or persons who have special knowledge with regard to the control and treatment of defectives who may

Board of
Control,
section 21.

The Adminis-
trative
Committee,
section
22 (5).

Local
authorities,
section 27.

Committees
for the
care of
defectives,
section 28.

Introduc- be appointed by the council, some of whom shall be women,
— and of the whole committee the majority shall be members of
the council.

In cases where a local authority has appointed a visiting committee, or asylums committee, under the Lunacy Acts, such committee may, with the addition of at least two women, also act for the care of the mentally defective.

Joint action
of local
authorities,
section 29.

Provisions are incorporated enabling two or more local authorities to amalgamate for the purpose of performing their powers and duties under the Act.

Duties of
local
education
authorities,
section 31.

The duties of a local education authority which are subject to the approval of the Board of Education, extend to making arrangements for ascertaining what children between the ages of 7 and 16 within their area are defectives, and which of such children are incapable of receiving benefit from instruction in special schools or classes, and to notify the names and addresses of defective children within their area, to the local authority.

The duties of a local education authority under the Education Acts are not affected by the enactments in the Mental Deficiency Acts.

Power of
Secretary of
State to act
in default of
duties of
local
authorities,
section 32.

The Secretary of State may institute an inquiry into the duties to be performed by a local authority, and if there has been any default, may order such local authority to do such acts for remedying the default, as may be necessary. The expenses incurred in respect of making such an order shall be the expenses of the local authority if so directed by the Secretary of State.

Expenses of
local
authorities,
section 33.

The expenses of a local authority under the Act shall be defrayed in the case of a county council, out of the county funds, and in the case of a county borough council, out of the borough fund or rate, and if there is no borough rate levied, then out of a separate rate to be assessed, provided that the rate shall not exceed one halfpenny in the pound, for expenses incurred, in the exercise of powers other than those which are obligatory under the Act.

INSTITUTIONS.

Part III. of the Act deals with the certification and provisions of institutions, &c.

State
institutions,
section 35.

The Board may establish and maintain (subject to the approval of the Secretary of State) state institutions for defectives of dangerous or violent propensities, and for the

purposes of the Act the Board shall be deemed to be the managers of such institutions. Introduct.

Premises provided by a board of guardians, or local authority for the purpose of the reception of defectives, become certified institutions only upon being passed by the Board as suitable. A certificate is given to the manager upon application, and remains in force for the period for which it is granted, or until revoked or resigned. Certification of institutions, sections 36, 37.

A certificate will not be granted by the Board unless the premises are designed or specially suitable for the purpose to which it is intended that they should be put.

It will be noted that any defective who is ordered to be sent to premises provided by a board of guardians, shall not be deemed to be in receipt of poor law relief by reason that such premises are provided by a board of guardians. Defective sent to certified institution not necessarily to be deemed a pauper, section 37 (2).

Subject to the approval of the Secretary of State, local authorities may combine and contribute moneys towards building, altering, enlarging or managing certified institutions or premises intended to be certified, or in the acquisition of land required for the use of a certified institution. A local authority may also contract with the managers of any certified institution for the reception of defectives for whose maintenance it is liable or authorised to make provision. Land may be acquired by a local authority for the purposes of the Act in the case of the council of a county in accordance with the Local Government Act, 1888, and in the case of the council of a county borough, as for the purposes of the Public Health Acts. Power of local authorities to combine to establish and maintain institutions, section 38.

The visitors of institutions under the Mental Deficiency Act, are the same persons as those appointed under the Lunacy Acts, for the visitation of licensed houses, with an addition to their number, which additional number shall include at least one woman. Visitors of institutions, section 40.

If a defective escapes from an institution, he may be apprehended without warrant by any constable, or by the managers of the institution or any person authorised by them in writing and brought back to the institution. There is no specified time limit contained in the section, which renders the apprehension of an escaped defective easier of fulfilment than is the case under the Lunacy Acts, where a limit of 14 days is imposed, after which period if the lunatic is still at large, he becomes discharged by operation of law. The apprehension of defectives who have escaped, section 42.

Introdut. The provisions of the Asylums Officers Superannuation Act, 1909, apply to certified institutions under the Mental Deficiency Act with certain adaptations and modifications as may be prescribed by the Secretary of State.

Superannua-
tion of
officers,
section 45.

Contributions
towards the
maintenance
of defectives,
sections
47-49.

Provisions are contained whereby contributions towards the maintenance of defectives, shall be paid out of money provided by parliament, on such conditions as the Secretary of State, may, with the approval of the Treasury, recommend.

OFFENCES, ETC.

Part IV. of the Act deals with general matters, *e.g.*, offences, legal proceedings, &c.

Offences with
respect to the
detention of
defectives,
section 51.

It is made a misdemeanor for any person, without the consent of the Board, to undertake the care and control of more than one defective. This enactment will be found to closely correspond with the provisions of the Lunacy Act of 1890, by which it is a misdemeanor for a person to keep more than one lunatic under his care, without the consent of the Board. It is also an offence for any person having charge of a defective to neglect to carry out certain prescribed regulations, or to detain a patient or to exercise any of the powers conferred by this Act, after such person has knowledge that those powers have expired.

Offence of
supplying
intoxicants,
section 52.

It is an offence for any person to supply intoxicants to a defective, after warning has been given by the person having charge of him, that such person is a defective, but it is not an offence unless the person giving the warning produces, if required so to do, the authority under which he acts.

Acts of
sexual
immorality,
section 56.

It will be observed that the Act provides wider powers for dealing with persons guilty of acts of sexual immorality in respect of female defectives than are applicable under the Lunacy Act, 1890, in the case of similar acts, with regard to lunatics. Under the Mental Deficiency Act the offence applies to *any* person (as opposed to a *class* of persons under the Lunacy Act) unless he proves that he did not know and had no reason to suspect that the woman or girl was a defective.

Various other
offences,
punishment
and appeal,
sections
57-61.

Various offences under the Act are enumerated, together with the punishment prescribed, and the means of appeal to any person who is aggrieved by the conviction of a court of summary jurisdiction.

The Act does not extend to Scotland or Ireland.

An Act especially applying to Scotland was passed in the same year (1913).

THE MENTAL DEFICIENCY ACT, 1913.

[3 & 4 GEO. 5, CH. 28.]

AN ACT to make further and better provision for the care of Feeble-minded and other Mentally Defective Persons and to amend the Lunacy Acts. [15th August, 1913.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

PART I.

POWER AND MANNER OF DEALING WITH DEFECTIVES.

Powers of dealing with Defectives.

1. The following classes of persons who are mentally defective shall be deemed to be defectives within the meaning of this Act :—

Section 1.
Definition of defectives.

- (a.) Idiots ; that is to say, persons so deeply defective in mind from birth or from an early age as to be unable to guard themselves against common physical dangers :
- (b.) Imbeciles ; that is to say, persons in whose case there exists from birth or from an early age mental defectiveness not amounting to idiocy, yet so pronounced that they are incapable of managing themselves or their affairs, or, in the case of children, of being taught to do so ;
- (c.) Feeble-minded persons ; that is to say, persons in whose case there exists from birth or from an early age mental defectiveness not amounting to imbecility, yet so pronounced that they require care, supervision, and control, for their own protection or for the protection of others, or, in the case of children, that they by reason of such defectiveness appear to be permanently

Section 1.

incapable of receiving proper benefit from the instruction in ordinary schools ;

- (d.) Moral imbeciles ; that is to say, persons who from an early age display some permanent mental defect coupled with strong vicious or criminal propensities on which punishment has had little or no deterrent effect.

“ While the responsibility for deciding in which category a child should be placed must rest with the certifying medical officer, it is desirable that he should take advantage as far as possible of the knowledge and experience possessed by the teachers, whether in Special Schools or in the ordinary Elementary Schools. When a child already in attendance at a Special School or Public Elementary School is to be examined, the opinion of the Head Teacher of the School will clearly be of value in determining the degree of mental defect, while even in the case of children who have not hitherto attended any school the Certifying Officer may find it advantageous to associate with himself in the work of examination a teacher who has had special experience in dealing with mentally defective children.” Board of Education Circular, 30th March, 1914, *post*, Appendix II.

Idiot.—Section 341 of the Lunacy Act, 1890, *ante*, defines “ Lunatic ” as an “ Idiot or person of unsound mind.”

“ Idiots ” will in future be dealt with under the Mental Deficiency Act, 1913, or under the Lunacy Acts, 1890—1911, as the Idiots Act, 1886, is by section 67 of this Act repealed.

The law regards an idiot as a person permanently incapacitated, whereas a lunatic is never presumed to be incapable of becoming sane.

Feeble-minded Children.—The Elementary Education (Defective and Epileptic Children) Act, 1899 (62 & 63 Vict. c. 32), provides as follows :—

Section 1. A school authority as defined by the Elementary Education (Blind and Deaf Children) Act, 1893, may with the approval of the education department make such arrangements as they think fit for ascertaining :—

(1) (a) What children in their district, not being imbecile, and not being merely dull or backward, are defective, that is to say, what children, by reason of mental or physical defect are incapable of receiving proper benefit from the instruction in the ordinary public elementary schools, but are not incapable by reason of such defect of receiving benefit from instruction in such special classes or schools as are in this Act mentioned ; and

(b) what children in their district are epileptic children, that is to say, what children, not being idiots or imbeciles, are unfit by reason of severe epilepsy to attend the ordinary public elementary schools.

2. (1.) A person who is a defective may be dealt with under this Act by being sent to or placed in an institution for defectives or placed under guardianship—

(a.) at the instance of his parent or guardian if he is an idiot or imbecile, or at the instance of his parent if, though

Circumstances rendering defectives subject to be dealt with.

not an idiot or imbecile, he is under the age of **Section 2.**
twenty-one; or

(b.) if in addition to being a defective he is a person—

(i.) who is found neglected, abandoned, or without visible means of support, or cruelly treated; or

(ii.) who is found guilty of any criminal offence, or who is ordered or found liable to be ordered to be sent to a certified industrial school;

(iii.) who is undergoing imprisonment (except imprisonment under civil process), or penal servitude, or is undergoing detention in a place of detention by order of a court, or in a reformatory or industrial school, or in an inebriate reformatory or who is detained in an institution for lunatics or a criminal lunatic asylum; or

(iv.) who is an habitual drunkard within the meaning of the Inebriates Acts, 1879 to 1900; or

(v.) in whose case such notice has been given by the local education authority as is hereinafter in this section mentioned; or

(vi.) who is in receipt of poor relief at the time of giving birth to an illegitimate child or when pregnant of such child.

(2.) Notice shall, subject to regulations made by the Board of Education, to be laid before Parliament as hereinafter provided, be given by the local education authority to the local authority under this Act in the case of all defective children over the age of seven—

(a.) who have been ascertained to be incapable by reason of mental defect of receiving benefit or further benefit in special schools or classes, or who cannot be instructed in a special school or class without detriment to the interests of the other children, or as respects whom the Board of Education certify that there are special circumstances which render it desirable that they should be dealt with under this Act by way of supervision or guardianship;

(b.) who on or before attaining the age of sixteen are about to be withdrawn or discharged from a special school or class, and in whose case the local education authority are of opinion that it would be to their benefit that

Section 2.

they should be sent to an institution or placed under guardianship.

Institutions for Defectives.—This includes any hospital, institution, or licensed house, registered under the now repealed Idiots Act, 1886. See section 67 (2), (a) and (b), *post*, p. 819; State Institutions for defectives of dangerous or violent propensities, see section 35 (1), *post*, p. 796; Certified Institutions, see section 36, *post*, p. 796; Certified Houses, see section 49 (1), p. 809; and Approved Homes as defined in section 71 (1), *post*, p. 820.

Placed under Guardianship.—This may be effected by placing a defective under the charge of a private individual, see the Home Secretary's Regulations, 201—237, *post*, Appendix II.

At the Instance of his Parent or Guardian.—This expression includes any person who undertakes or performs towards the defective the duty of a parent or guardian (section 71). Idiots and imbeciles, section 1 (a) and (b), may be detained at the instance of either a parent or guardian; feeble-minded persons and moral imbeciles, section 1 (c) and (d) under 21 years of age, can be detained at the instance of a parent, but not at the instance of a guardian. In any case it is necessary before committal to an institution that certificates in the prescribed form, signed by two qualified medical practitioners, be obtained (section 3 (1)), and where the defective is not an idiot or imbecile, the certificate also signed by a judicial authority as required by section 3 (1).

Proper Person to Act.—Where both parents are living the father is the proper person to proceed under this Act, but where he is under a disability, or there are no parents, see as to guardianship generally: the Guardianship of Infants Act, 1886 (49 & 50 Vict. c. 27).

By the Care and Education of Infant Felons Act, 1840 (3 & 4 Vict. c. 90), s. 1, the Court of Chancery is empowered upon the application of any person or persons willing to take charge of an infant felon, to assign the custody of such infant, during his or her minority, to such person or persons.

By the Poor Law Act, 1899 (62 & 63 Vict. c. 37).

- “1. Where a child is maintained by the guardians of a poor law union, and
- (i) the child has been deserted by its parent; or
 - (ii) the guardians are of opinion that by reason of mental deficiency or of vicious habits or mode of life a parent of the child is unfit to have the control of it; or
 - (iii) a parent is unable to perform his or her parental duties by reason of being under sentence of penal servitude, or of being detained under the Inebriates Act, 1898; or
 - (iv) a parent of the child has been sentenced to imprisonment in respect of any offence against any of his or her children; or
 - (v) a parent of the child is permanently bedridden or disabled, and is the inmate of a workhouse and consents; or
 - (vi) both the parents, or in the case of an illegitimate child the mother of the child are or is dead,

the guardians may at any time resolve that until the child reaches the age of eighteen all the rights and powers of such parent as aforesaid, or if both

parents are dead of the parents, in respect of the child shall subject as in this Act mentioned, rest in the guardians. . . .” Section 2.

NOTE.

The resolution referred to may be rescinded by the guardians or otherwise determined by a Court of Summary Jurisdiction if satisfied upon a complaint by a parent or guardian.

By the Children's Act, 1908 (8 Ed. 7, c. 67), s. 21, the court may make an order for the care of a child against whom an offence under that Act has been committed.

Found Guilty of any Criminal Offence.—For procedure in cases of persons guilty of offences, see section 8, *post*, p. 762.

Certified Industrial School.—These schools are regulated by The Children's Act, 1908 (8 Ed. 7, c. 67), Part IV., sections 44—93.

Habitual Drunkard.—“ ‘Habitual drunkard’ means a person who, not being amenable to any jurisdiction in lunacy, is, notwithstanding, by reason of habitual intemperate drinking of intoxicating liquor, at times dangerous to himself or herself or to others, or incapable of managing himself or herself, and his or her affairs.” The Habitual Drunkards Act, 1879 (42 & 43 Vict. c. 19), s. 3.

In *Eaton v. Best*, [1909] 1 K. B. 632, it was held that the definition of “habitual drunkard” includes the case of a person who is habitually in a condition of not being able to manage his own affairs through drunkenness, even though during sober intervals he may be capable of managing himself or his affairs.

In *Robson v. Robson* (1904), 68 J. P. 416, the definition was held to include a case where the evidence showed that there was habitual drinking, rare sobriety, proofs of assault and threats.

Mental Deficiency (Notification of Children) Regulations, 1914, were issued on 24th of March, and are set out under “Regulations” in Appendix II., together with the memorandum relating to construction in the circular of the Board of Education, 30th March, 1914.

Local Authority.—Section 27, *post*, provides as follows:—

“The Local Authority, for the purposes of this Act, shall, as respects a county, be the council of the county, and as respects a county borough, be the council of the borough.”

Local Education Authorities.—The duty of ascertaining what children over the age of seven, and under the age of sixteen, are defectives, rests with the local education authority under section 30 (iv), *post*, p. 789, and not with the county or borough councils (section 27, *post*, p. 784). Under section 30 (a), *post*, p. 787, such councils have no duties as respects defective children, except those whose names and addresses have been notified to them (section 30 (iv), p. 789). It is the duty of the local education authority to give such notice as regards children of over seven years, and to ascertain what children within their area are defectives (section 31 (a), *post*, p. 790).

Incapable of receiving Benefit.—“If the certifying officer certifies that a child of the age of seven years or upwards is incapable, by reason of mental defect, of receiving benefit from instruction in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, the local education authority shall notify the name and address of the

Section 2. child to the Local Authority under the Mental Deficiency Act, 1913, and shall furnish that authority with a copy of the certificate of the certifying officer, which shall be in the prescribed form, and of his report on the child.”

NOTE.

“In any case where it is proposed to notify under this Article of these Regulations the name and address of a child who is not an idiot or an imbecile, the local education authority shall, if required by the Board of Education, before notifying the name of the child, refer to the Board of Education for determination of the question whether the name should be notified” (section 2 of the Mental Deficiency (Notification of Children) Regulations, 1914, *post*, Appendix II.).

The certificate of the certifying officer is not binding as there is a discretionary power vested in the Local Education Authority to refer the matter for determination to the Board of Education. (See section 7 of the Mental Deficiency (Notification of Children) Regulations, 1914, *post*, Appendix II.).

“If the certifying officer certifies that a child of the age of seven years or upwards who is, or has been, in attendance at a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, is incapable of receiving further benefit from instruction in such a school or class, the Local Education Authority shall notify the name and address of the child to the local authority under the Mental Deficiency Act, 1913, and shall furnish that authority with a copy of the certificate of the certifying officer, which shall be in the prescribed form, and of his report on the child.”

“In any case where it is proposed to notify under this Article of these Regulations the name and address of a child who is not an idiot or an imbecile, the Local Education Authority shall, if required by the Board of Education, before notifying the name of the child, refer to the Board of Education for determination the question whether the name should be notified” (*Ib.* section 3).

Special Schools or Classes.—The Elementary Education (Defective and Epileptic Children) Act, 1899 (62 & 63 Vict. c. 32), provides as follows:—

2. (1.) Where a school authority have ascertained that there are in their district defective children, they may make provision for the education of such children by all or any of the following means:—

- (a.) By classes in public elementary schools certified by the Education Department as special classes; or
- (b.) By boarding out, subject to the regulations of the Education Department, any such child in a house conveniently near to a certified special class or school; or
- (c.) By establishing schools, certified by the Education Department, for defective children.

(2.) Where a school authority have ascertained that there are in their district epileptic children, they may make provision for the education of such children by establishing schools, certified by the Education Department, for epileptic children.

(3.) The power conferred by this section shall include power to establish or acquire and to maintain certified schools, and to contribute, on such terms and to such extent as may be approved by the Education

department, towards the establishment, enlargement, or alteration, and towards the maintenance of certified schools.

Section 2.

NOTE.

(4.) A school authority may in respect of children resident in or whose permanent home is in their district and attending certified special classes or schools in the district of another school authority, contribute to that other authority the proportionate cost of the provision and maintenance of such special classes or schools.

(5.) The school authority, acting under this section, shall make provision for the examination from time to time of any child dealt with under this section, in order to ascertain whether such child has attained such a mental and physical condition as to be fit to attend the ordinary classes of public elementary schools; and the school authority shall make provision for such examination in the case of any child whose parent claims such examination of his child, provided that the parent shall not make such claim within less than six months after his child has been examined; and any school authority failing to make such provision as this sub-section requires shall be deemed to have acted in contravention of this Act.

(6.) The Education Department shall not certify any establishment established after the commencement of this Act for boarding and lodging more than fifteen defective or epileptic children in one building or comprising more than four such buildings.

“If the certifying officer certifies that a child of the age of seven years or upwards cannot be instructed in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, without detriment to the interests of the other children, the local education authority shall notify the name and address of the child to the local authority under the Mental Deficiency Act, 1913, and shall furnish that authority with a copy of the certificate of the certifying officer, which shall be in the prescribed form, and of his report on the child.”

“In any case where it is proposed to notify under this Article of these Regulations the name and address of a child who is not a moral imbecile, the local education authority shall, if required by the Board of Education, before notifying the name of the child refer to the Board of Education for determination the question whether the name should be notified.” (Section 4, Mental Deficiency (Notification of Children) Regulations, 1914, *post*, Appendix II.)

“If the local education authority are satisfied upon any representation made to them or otherwise that it is desirable that a mentally defective child of the age of seven years or upwards who is certified to be capable of receiving benefit from instruction in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, should be dealt with by way of supervision or guardianship under the Mental Deficiency Act, 1913, they shall notify the case to the Board of Education, together with such particulars as the Board of Education may require, and if the Board certify that there are special circumstances which render it desirable that the child should be dealt with under the Mental Deficiency Act, 1913, by way of supervision or guardianship, the Local Education Authority shall notify the name and address of the child to the local authority under the Mental Deficiency Act, 1913.” (Section 5, Mental Deficiency (Notification of Children) Regulations, 1914, *post*, Appendix II.)

Section 2. *Age of Sixteen.*—Section 11 of the Elementary Education (Defective and Epileptic Children) Act, 1899 (62 & 63 Vict. c. 32), provides as follows :—

NOTE.

“For the purposes of the Elementary Education Acts, 1870 to 1893, and of this Act, a defective or epileptic boy or girl shall be deemed to be a child until the age of sixteen years, and the period of compulsory education shall, in the case of such a child, extend to sixteen years, and the attendance of such a child at school may be enforced as if it were required by byelaws made under the Elementary Education Acts, 1870 to 1893, and any such child shall not, in accordance with such byelaws, be entitled to total or partial exemption from the obligation to attend school.”

“The Local Education Authority shall notify to the local authority under the Mental Deficiency Act, 1913, the name and address of any mentally defective child who, on or before attaining the age of sixteen, is about to be withdrawn or discharged from a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, and in whose case the Local Education Authority are of opinion that it would be to his benefit that he should be sent to an institution or placed under guardianship under the Mental Deficiency Act, 1913.” (Section 6, Mental Deficiency (Notification of Children) Regulations, 1914, Appendix II.)

Power to deal with defectives at instance of parent or guardian.

3. (1.) The parent or guardian of a defective who is an idiot or imbecile, and the parent of a defective who though not an idiot or imbecile is under the age of twenty-one, may place him in an institution or under guardianship. Provided that he shall not be so placed in an institution or under guardianship, except upon certificates in the prescribed form signed by two duly qualified medical practitioners, one of whom shall be a medical practitioner approved for the purpose by the local authority or the Board, and, where the defective is not an idiot or imbecile, also signed, after such inquiry as he shall think fit, by a judicial authority for the purposes of this Act, stating that the signatories of the certificate are severally satisfied that the person to whom the certificate relates is a defective and the class of defectives to which he belongs, accompanied by a statement, signed by the parent or guardian, giving the prescribed particulars with respect to him.

(2.) Where a defective has been so placed in an institution for defectives or under guardianship, the managers of the institution, or the person under whose guardianship he has been placed, shall, within seven days after his reception send to the Board of Control hereinafter constituted (in this Act referred to as the Board) notice of his reception and such other particulars as may be prescribed.

Prescribed Form.—The form of certificate is in the Secretary of State's Regulations, Form P4.

The form of certificate of the judicial authority is in the Home Secretary's Regulations, *post*, Form P9, Appendix II. Section 3.

Prescribed Particulars.—See Form P8 of the Home Secretary's Regulations, *post*, Appendix II.

NOTE.

Notice of Reception.—"Notice must be sent to the Board, within seven days of the admission of a patient together with a medical statement to be made and signed by the medical officer of the certified institution or certified house together with copies of the order by which the patient was sent and of the documents on which the same was founded, or if the patient was placed in the certified institution or certified house by his parent or guardian copies of the statement by the parent or guardian and of the certificates: and in the case of persons not dealt with under the Act such notice as the Board may require must be sent to them by the superintendent of every certified institution, certified house, and approved home" (Home Secretary's Regulations, section 94 (*d*), *post*, Appendix II.), and "when a defective has been placed under guardianship, the person appointed guardian shall, within seven days after the reception of the patient, send to the Board notice thereof in the prescribed form together with a medical statement to be made and signed, when the patient has been received under an order by the medical officer of the local authority, and, when received without order, by a duly qualified medical practitioner, together with copies of the order and documents whereon the same was made, or, if the patient has been placed under guardianship without order, copies of the statement by the parent or guardian and of the certificates." (Home Secretary's Regulations, section 208, *post*, Form RI, *post*, Appendix II.)

4. A defective subject to be dealt with under this Act otherwise than under paragraph (A) of sub-section (1) of section 2 of this Act may so be dealt with— Power to deal with defectives otherwise than at instance of parent or guardian.

(A) under an order made by a judicial authority on a petition presented under this Act; or

(B) under an order of a court in the case of a defective found guilty of a criminal offence, punishable in the case of an adult with imprisonment or penal servitude, or liable to be ordered to be sent to an industrial school; or

(C) under an order of the Secretary of State, in the case of a defective detained in a prison, criminal lunatic asylum, reformatory or industrial school, place of detention, or inebriate reformatory;

but no such order shall be made except in the circumstances and in the manner hereinafter specified.

The "*Judicial Authority*" is the same official as was created under the Lunacy Act, 1890, but there is the essential difference in practice, that under the latter Act the question of seeing the patient before signing the

Section 4. order is discretionary, under the Mental Deficiency Act, it is obligatory on the judicial authority to interview the patient before signing the order.

NOTE.

Order of a Court.—See section 8, *post*, p. 762.

Order of Secretary of State.—See section 9, *post*, p. 766.

Requirements as to the making of Orders.

Presentation
of Petitions.

5. (1.) An order of a judicial authority under this Act shall be obtainable upon a private application by petition made by any relative or friend of the alleged defective, or by any officer of the local authority under this Act authorised in that behalf.

(2.) Every petition shall be accompanied by two medical certificates, one of which shall be signed by a medical practitioner approved for the purpose by the local authority or the Board, or a certificate that a medical examination was impracticable, and by a statutory declaration made by the petitioner and by at least one other person (who may be one of the persons who gave a medical certificate) stating—

- (A) that the person to whom the petition relates is a defective within the meaning of this Act, and the class of defectives to which he is alleged to belong; and
- (B) that that person is subject to be dealt with under this Act, and the circumstances which render him so subject; and
- (C) whether or not a petition under this Act, or a petition for a reception order under the Lunacy Acts, 1890—1911, has previously been presented concerning that person, and, if such a petition has been presented, the date thereof and the result of the proceedings thereon; and
- (D) if the petition is accompanied by a certificate that a medical examination was impracticable, the circumstances which rendered it impracticable.

(3.) If a petition is not presented by a relative or by an officer of the local authority, it shall contain a statement of the reasons why the petition is not presented by a relative, and of the connection of the petitioner with the person to whom the petition relates and the circumstances under which he presents the petition.

(4.) Where the Board are satisfied that a petition under this section ought to be presented concerning any person, and that

the local authority have refused or neglected to cause a petition to be presented, they may direct an inspector or other officer to present a petition, and this section shall apply accordingly. Section 5.
NOTE.

Petition.—"No person shall present a petition unless he is at least twenty-one years of age and has within fourteen days before the presentation of the petition personally seen the alleged defective." Home Secretary's Regulations, "Procedure on Petition," section 30, *post*, Appendix II.

Compare Lunacy Act, 1890, section 5 (2), *ante*, p. 157.

"If, after a petition has been dismissed, another petition is presented as to the same alleged defective, the person presenting such other petition shall obtain from the Board, and present with his petition, a copy of the statement referred to in section 34 of the Home Secretary's Regulations." (Section 35 of those Regulations, *post*, Appendix II.)

It will be noted that the regulations follow the provisions of the Lunacy Act, 1890, section 7 (1), *ante*, p. 160.

Relative means the husband or wife, or a lineal ancestor, or lineal descendant of an ancestor not more remote than great grandfather or great grandmother, section 71, *post*, p. 820.

Petition Presented by Relative or Friend.—"If the petition is presented by a relative or friend the petitioner shall in the petition undertake that he will personally, or by some one specially appointed by him, visit the defective once at least in every six months, and the undertaking shall be recited in the order." Home Secretary's Regulations, "Procedure on Petitions," section 32, *post*. See also Form P1., Appendix II.

This provision follows the terms of the Lunacy Act, 1890.

Medical Certificates.—"One of the medical certificates accompanying the petition shall, whenever practicable, be under the hand of the usual medical attendant, if any, of the alleged defective. If for any reason it is not practicable to obtain a certificate for such usual medical attendant, the reason shall be stated in the petition." (Home Secretary's Regulations, V., 37 (a), *post*, Appendix II.)

The procedure under the Lunacy Act, 1890, with regard to medical certificates is closely followed.

"Every medical certificate accompanying a petition shall state the facts upon which the certifier has formed his opinion that the alleged defective is a defective distinguishing facts observed by himself from facts communicated by others, and an Order shall not be made upon a certificate which is not founded wholly or in part upon facts observed by the certifier." Home Secretary's Regulations, V., 37 (b), *post*, Appendix II.

"An Order shall not be made unless each medical practitioner who signs a certificate has, separately from the other medical practitioner, personally examined the alleged defective not more than seven clear days before the date of the presentation of the petition." Home Secretary's Regulations, V., 37 (c), *post*, Appendix II.

"A medical certificate accompanying a petition shall not be signed by the petitioner, or by the husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother

Section 5. or brother-in-law, sister or sister-in-law, partner, or assistant of the petitioner." Home Secretary's Regulations, V., 37 (*d*), *post*, Appendix II.

NOTE.

"Neither of the persons signing the medical certificates accompanying the petition shall be the husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner, or assistant of the other of them." Home Secretary's Regulations, V., 37 (*e*), *post*, Appendix II.

"A medical certificate shall not be signed by a visitor unless he is ordered by the judicial authority to examine the alleged defective." Home Secretary's Regulations, V., 37 (*f*), *post*, Appendix II.

"An Order shall not be made sending any defective to an institution or certified house or placing him under guardianship where any certificate accompanying the petition has been signed by any of the following persons":—

- (i.) "A manager or owner of the institution or certified house, or the person appointed guardian of the defective.
- (ii.) "Any person interested in the payments on account of the defective.
- (iii.) "Any regular medical attendant of the institution or certified house.
- (iv.) "The husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner, or assistant of any of the foregoing persons." Home Secretary's Regulations, V., 37 (*g*), *post*, Appendix II.

"Where the person who joins with the petitioner in making the statutory declaration is not one of the persons who gave a medical certificate the following provisions shall apply to him":—

- (i.) "He or she shall not be the husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner, or assistant of the petitioner or of either of the persons who gave the medical certificates.
- (ii.) "The preceding sub-section (G) shall apply as if he or she had signed one of the medical certificates." Home Secretary's Regulations, V., 37 (*h*), *post*, Appendix II.

For form of medical certificate, see Form P4, Home Secretary's Regulations, *post*, Appendix II.

For form of certificate that medical examination was impracticable, see Form P5. Home Secretary's Regulations, *post*, Appendix II.

Statutory Declaration.—"No petition shall be presented unless signed by the petitioner, and accompanied by the certificate or certificates, and the statutory declaration required by the Act, and a statement of particulars." Home Secretary's Regulations, "Procedure on Petitions," section 31, *post*, Appendix II. For form of particulars and form of statutory declaration, see Forms P3 and P6 of the Home Secretary's Regulations, *post*, Appendix II.

Class.—Whether an idiot, imbecile, feeble-minded person, or a moral imbecile (see section 1, *ante*, p. 747).

Statement of Reasons why the Petition is not presented by a Relative.—A similar provision is contained in the Lunacy Act, 1890, section 5 (1), *ante*, p. 157.

6. (1.) Upon the presentation of the petition and such documents as aforesaid, the judicial authority shall either visit the person to whom the petition relates or summon him to appear before him. Section 6.
—
Procedure
on hearing
petitions.

(2.) Proceedings before the judicial authority may, in any case if the judicial authority thinks fit, and shall, if so desired by the person to whom the petition relates, be conducted in private, and in that case no one except the petitioner, the person to whom the petition relates, his parents or guardian and any two persons appointed for the purpose by the person to whom the petition relates, or by his parents or guardian, and the persons signing the medical certificates and the statutory declaration accompanying the petition shall, without leave of the judicial authority, be allowed to be present.

(3.) If the judicial authority is satisfied that the person to whom the petition relates is a defective and is also satisfied that he is subject to be dealt with under this Act, the judicial authority may, if he thinks it desirable to do so in the interests of such person, make an order either ordering him to be sent to an institution the managers of which are willing to receive him, or appointing a suitable person to be his guardian, and the order shall state the class of defectives to which he belongs, and the circumstances which render him subject to be dealt with under this Act :

Provided that—

(A) where the petition is not presented by the parent or guardian, the order shall not be made without the consent in writing of the parent or guardian, unless it is proved to the satisfaction of the judicial authority that such consent is unreasonably withheld, or that the parent or guardian cannot be found, but consent shall not be deemed to be unreasonably withheld if withheld with the *bonâ fide* intention of benefiting the defective ; and

(B) nothing in this section shall prevent an order being made, notwithstanding that the person to whom the petition relates does not appear to the judicial authority to belong to the class of defectives to which he is in the petition alleged to belong, if the judicial authority is satisfied that he is a defective.

Section 6. (4.) If the judicial authority is not satisfied that the person to whom the petition relates is a defective, and subject to be dealt with under this Act, or that it is desirable in the interests of such person that an order should be made, the judicial authority may, if he thinks fit, adjourn the case for a period not exceeding fourteen days for further evidence or information, and may order that the person to whom the petition relates shall submit himself to medical examination, or may dismiss the petition :

Provided that, unless the petition is dismissed, the judicial authority shall order a medical examination in any case where the petition was accompanied by a certificate that a medical examination was impracticable.

Documents as Aforesaid.—These comprise two medical certificates, one of which should be signed by a medical practitioner approved by the local authority or the Board of Control, or in the absence thereof a certificate that a medical examination was impracticable accompanied by a statutory declaration setting forth the requirements in section 5 (2) *a, b, c, and d*, by the petitioner, and one other person who may be one of the persons who gave a medical certificate.

Visitation by Judicial Authority.—Cf. Lunacy Act, 1890, s. 6 (1) and (2), *ante*, pp. 158, 159, which allow the judicial authority discretionary power to visit the alleged lunatic or not, as he may determine, see also Home Secretary's Regulations, 2nd April, 1914, section 33 (A) and (B), *post*, Appendix II.

Proceedings before Judicial Authority.—"Every judicial authority has the same jurisdiction and power as regards the summoning and examination of witnesses, the administration of oaths, costs, and otherwise as if he were acting in the exercise of his ordinary jurisdiction," and he is entitled to be assisted by the same officers as if he was so acting (section 19 (2), *post*), p. 779.

Institution.—"The expressions 'Institution' and institution for 'defectives' mean a state institution or certified institution" (section 71, *post*), p. 821. In the event of the judicial authority receiving notice that the defective's friends are prepared to be responsible for the maintenance of the defective, the judicial authority may order the defective's detention in a "certified house" (section 49 (2), *post*, p. 809), but it is not lawful to receive or detain in an "approved home" any person ordered to be sent to an "institution" for defectives under an order of the judicial authority or a court, or Secretary of State under this Act, see section 50 (2), *post*, p. 810.

7. (1.) Where an order has been made that a defective be placed under guardianship the judicial authority which made the order, or any other judicial authority, or, where the original order was not made by a judicial authority, any judicial authority may, on application being made for the purpose by the guardian or by the Board or by the local authority, and on

being satisfied that the case is or has become one unsuitable for guardianship, order that the defective be sent to an institution. Section 7.

(2.) A person appointed to be guardian of a defective may, on the application of the local authority or of the Board or of any other person who appears to be interested, be removed from his office by any such judicial authority as aforesaid, and, where a person appointed to be guardian of a defective dies, or resigns his office, or is removed from his office, such judicial authority as aforesaid may, on the like application, appoint a suitable person to act in his stead.

(3.) An order under this section shall not be made without giving to the local authority and, where practicable, to the relative or other person who presented the original petition and to the parent or guardian of the defective, an opportunity of being heard.

Unsuitable for Guardianship.—"If the patient is, or becomes, unsuitable for guardianship, the guardian shall give immediate notice of the circumstances to the Board and to the person or authority paying for the maintenance of the defective." Home Secretary's Regulations, 2nd April, 1914, section 215, *post*, Appendix II.

"When a patient ordered to be placed under guardianship is, or becomes, unsuitable for guardianship, the local authority, in default of application by the person appointed guardian, shall, unless the Board otherwise direct, apply to a judicial authority for an order that the patient be sent to an institution or certified house." Home Secretary's Regulations, 2nd April, 1914, section 215, *post*, Appendix II.

Resignation or Death of Guardian.—"A guardian who wishes to resign the guardianship of a defective shall give previous notice of his intention to the Board and to the person or authority paying for the maintenance of the defective." Home Secretary's Regulations, 2nd April, 1914, section 214, *post*, Appendix II.

"Any person appointed to be the guardian of a defective who resigns his guardianship without such previous notice as aforesaid, or who abandons his guardianship or fails to carry out the foregoing regulations, shall be liable, on conviction thereof, to a penalty not exceeding £20." Home Secretary's Regulations, section 217, *post*, Appendix II.

A guardian "shall, if the defective is placed under his guardianship on the death, resignation, or removal from office of a former guardian, send to the Board within seven days of his reception notice thereof, together with a copy of the order of the judicial authority appointing him to be guardian." Home Secretary's Regulations, 2nd April, 1914, section 216, *post*, Appendix II.

Appointment of Successor on Removal of Guardian.—"The local authority, in default of application by any other person who appears to be interested,

Section 7. shall, unless the Board otherwise direct, apply to a judicial authority for an order :

NOTE.

(A) for the removal of any person appointed guardian who is or becomes unsuitable or abandons his charge.

(B) for the appointment of a suitable person in the place of a person appointed guardian who has been removed, has died, or has resigned, or is about to resign his office."

Home Secretary's Regulations, 2nd April, 1914, section 236, *post*, Appendix II.

See also Home Secretary's Regulations, 1st May, 1914, section 4, *post*, Appendix II.

Procedure in
cases of
persons
guilty of
offences, &c.
8 Ed. 7, c. 57.

8. (1.) On the conviction by a court of competent jurisdiction of any person of any criminal offence punishable in the case of an adult with penal servitude or imprisonment, or on a child brought before a court under section fifty-eight of the Children Act, 1908, being found liable to be sent to an industrial school, the court, if satisfied on medical evidence that he is a defective within the meaning of this Act, may either—

(A) postpone passing sentence or making an order for committal to an industrial school, and direct that a petition be presented to a judicial authority under this Act with a view to obtaining an order that he be sent to an institution or placed under guardianship ; or

(B) in lieu of passing sentence or making an order for committal to an industrial school, itself make any order which if a petition had been duly presented under this Act the judicial authority might have made, which order shall have the like effect as if it had been made by a judicial authority on a petition under this Act :

Provided that, if the court is a court of summary jurisdiction and the case is one which the court has power to deal with summarily, the court, if it finds that the charge is proved, may give such directions or make such order as aforesaid without proceeding to a conviction, and such a person shall for the purposes of this Act be deemed to be a person found guilty of an offence.

"Where the court is of opinion that the offender is a defective with respect to whom an order should be made under the Act, it remains to be decided whether the circumstances of the offence, and of the defective's mental and moral condition, are such as to indicate that he can be provided with adequate care and control only in an institution, or whether, on the

other hand, an order that he be placed under guardianship may be practicable and sufficient. The adoption of the latter course, whenever circumstances admit of it, will have the advantage of diminishing the charge for maintenance, and will, it is anticipated, provide in many instances the protection which is called for in the defective's interest with less severe restrictions on his liberty than committal to an institution involves." Home Office Circular, 2nd April, 1914, *post*, Appendix II.

Section 8.

NOTE.

(2.) The court may act either on the evidence given during the trial or other proceedings, or may call for further medical or other evidence.

(3.) Where the court so directs a petition to be presented against a person, it may order him to be detained in an institution for defectives or in a place of safety for such time as is required for the presentation of the petition and the adjudication thereof.

(4.) Where it appears to any court of summary jurisdiction by which a person charged with an offence is remanded or committed for trial that such person is a defective, the court may order that pending the further hearing or trial he shall be detained in an institution for defectives, or be placed under the guardianship of any person on that person entering into a recognisance for his appearance.

As to contribution to local authorities towards expenses of maintenance and obligations of local authorities, see Circular to County and County Borough Councils from the Board of Control, 2nd April, 1914, pars. 3, 7, and 8, *post*, Appendix II.

(5.) Where it appears to the police authority that any person charged with an offence is a defective, they shall communicate with the local authority, and it shall be the duty of the police authority to bring before the court such evidence as to his mental condition as may be available :

Provided that, where it is intended to bring such evidence before the court, the police authority shall give notice of the intention to the person charged, and to his parent or guardian, if known.

Mere mental deficiency does not necessarily entitle a jury to return a special verdict under section 2 (1) of the Trial of Lunatics Act, 1883, *ante* : *Rex v. Alexander*, C. C. A., 9 Cr. App. 139 ; *Rex v. McLaren* (1913), 9 Cr. App. R. 107.

Children guilty of Offences.—Section 58 of the Children Act, 1908 (8 Edw. 7, c. 67), provides as follows :—

(1.) Any person may bring before a petty sessional court any person apparently under the age of fourteen years who

(A) is found begging or receiving alms (whether or not there is any

Section 8.

NOTE.

- pretence of singing, playing, performing, offering anything for sale, or otherwise) or being in any street, premises, or place for the purpose of so begging or receiving alms ; or
- (B) is found wandering and not having any home or settled place of abode, or visible means of subsistence, or is found wandering and having no parent or guardian, or a parent or guardian who does not exercise proper guardianship ; or
- (C) is found destitute, not being an orphan and having both parents or his surviving parent, or in the case of an illegitimate child, his mother, undergoing penal servitude or imprisonment ; or
- (D) is under the care of a parent or guardian who, by reason of the criminal or drunken habits, is unfit to have the care of the child ; or
- (E) is the daughter, whether legitimate or illegitimate, of a father who has been convicted of an offence under section four or section five of the Criminal Law Amendment Act, 1885, in respect of any of his daughters, whether legitimate or illegitimate ; or
- (F) frequents the company of a reputed thief, or of any common or reputed prostitute ; or
- (G) is lodging or residing in a house or the part of a house used by any prostitute for the purposes of prostitution, or is otherwise living in circumstances calculated to cause, encourage, or favour the seduction or prostitution of the child.

And the court before which a person is brought as coming within one of those descriptions, if satisfied on inquiry of that fact, and that it is expedient so to deal with him, may order him to be sent to a certified industrial school. Provided that a child shall not be treated as coming within the description contained in paragraph (F) if the only common or reputed prostitute whose company the child frequents is the mother of the child, and she exercises proper guardianship and due care to protect the child from contamination.

(2.) Where a child, apparently under the age of twelve years, is charged before a court of assize or quarter sessions or a petty sessional court with an offence punishable in the case of an adult by penal servitude or a less punishment, the court, if satisfied on inquiry that it is expedient so to deal with the child, may order him to be sent to a certified industrial school.

(3.) Where a child, apparently of the age of twelve or thirteen years, who has not previously been convicted, is charged before a petty sessional court with an offence punishable in the case of an adult by penal servitude or a less punishment, and the court is satisfied that the child should be sent to a certified school but, having regard to the special circumstances of the case, should not be sent to a certified reformatory school, and is also satisfied that the character and antecedents of the child are such that he will not exercise an evil influence over the other children in a certified industrial school, the court may order the child to be sent to a certified industrial school, having previously ascertained that the managers are willing to receive the child.

Provided that the Secretary of State may, on the application of the

managers of the industrial school, by order transfer the child to a certified reformatory school. Section 8.

NOTE.

(4.) Where the parent or guardian of a child proves to a petty sessional court that he is unable to control the child, and that he desires the child to be sent to an industrial school under this Part of this Act, the court, if satisfied on inquiry that it is expedient so to deal with the child, and that the parent or guardian understands the results which will follow, may order him to be sent to a certified industrial school.

Provided that, if the court thinks that it is expedient that the child instead of being sent to a certified industrial school should be placed under the supervision of a probation officer, the court may deal with him in like manner as, if he had been charged with an offence, the court might have dealt with him under the Probation of Offenders Act, 1907, so, however, that the recognisance on entering into which he is discharged shall bind him to appear for having a detention order made against him.

(5.) Where the guardians of a poor law union or the managers of a district poor law school satisfy a petty sessional court that any child maintained in a workhouse or district poor law school is refractory or is the child of parents, either of whom has been convicted of an offence punishable with penal servitude or imprisonment, and that it is desirable that the child be sent to an industrial school under this Part of this Act, the court may, if satisfied that it is expedient so to deal with the child, order him to be sent to a certified industrial school.

(6.) A petty sessional court may, on the complaint of a local education authority, made in accordance with the provisions of section twelve of the Elementary Education Act, 1876, for the purpose of enforcing an attendance order, order a child to be sent to a certified industrial school as provided in that section.

Provided that, if upon any such complaint it appears to the court that the child comes within one of the descriptions mentioned in sub-section 1 of this section, the court may, on the application of the local education authority, proceed under that sub-section and not under this sub-section or section 12 of the Elementary Education Act, 1876.

(7.) Where under this section a court is empowered to order a child to be sent to a certified industrial school, the court, in lieu of ordering him to be so sent, may in accordance with the provisions of Part II. of this Act, make an order for the committal of the child to the care of a relative or other fit person named by the court, and the provisions of that Part shall, so far as applicable, apply as if the order were an order under that Part.

(8.) It shall be the duty of the police authority to take proceedings under sub-section 1 of this section as respects any child in their district who appears to the authority to come within one of the descriptions mentioned in that sub-section, unless

- (A) the case is one within the cognisance of the local education authority, and that authority decide themselves to take the proceedings; or
- (B) proceedings are being taken by some other person; or
- (C) the police authority are satisfied that the taking of proceedings is undesirable in the interests of the child.

“The expression ‘*place of safety*’ means any workhouse or police

Section 8. station, any institution, any place of detention, and any hospital, surgery, or other suitable place, the occupier of which is willing to receive temporarily persons who may be taken to places of safety under this Act " (section 71, *post*, p. 820).

NOTE.

Procedure in case of defectives undergoing imprisonment, &c.

9. Where the Secretary of State is satisfied from the certificate of two duly qualified medical practitioners that any person who is undergoing imprisonment (except imprisonment under civil process) or penal servitude, or is undergoing detention in a place of detention by order of a court, or in a reformatory or industrial school or in an inebriate reformatory, or who is detained in a criminal lunatic asylum is a defective, the Secretary of State may order that he be transferred therefrom and sent to an institution for defectives, the managers of which are willing to receive him, or that he be placed under guardianship, and any order so made shall have the like effect, as if it had been made by a judicial authority on petition under this Act.

As to contribution to local authorities towards expenses of maintenance, and obligations of local authorities, see Circular to County and County Borough Councils, from Board of Control, 2nd April, 1914, pars. 3, 7 and 8, *post*, Appendix II.

Place of Detention.—The Children Act, 1908 (8 Edw. 7; c. 67), section 108, provides as follows:—

(1.) It shall be the duty of every police authority to provide such places of detention for every petty sessional division within their district as may be required for the purposes of this Act, either by arranging with the occupiers of any premises whether within or without their district for the use of those premises for the purpose, or by themselves establishing or joining with another police authority in establishing such places; but nothing shall prevent the same place of detention being provided for two or more petty sessional divisions.

(2.) If more than one place of detention is provided for any petty sessional division, the police authority may determine that any such place shall be used for some only of the purposes for which places of detention are required to be provided and another place for the other purposes.

(3.) Before arranging for the use of any premises as aforesaid the police authority shall satisfy themselves of the fitness of the occupier thereof to have the custody and care of children or young persons committed to, or detained in, custody under this Part of this Act, and of the suitability of the accommodation provided by him.

(4.) It shall be lawful for the authority or persons responsible for the management of any institution other than a prison, whether supported out of public funds or by voluntary contributions, but subject in the case of an institution supported out of public funds to the consent of the Government department concerned, to agree with the police authority for the

use of the institution or any part thereof as a place of detention on such terms as may be agreed upon between them and the police authority. **Section 9.**

(5.) The police authority shall keep a register of the places of detention provided by them for each petty sessional division, and the register shall contain a description of the premises, the names of the occupiers thereof, and the number of children or young persons who may be detained in custody in the several premises, and no child or young person shall be detained in custody in any place which is not so registered.

(6.) A copy of the register shall be kept at every court house and police station within the area to which it relates.

(7.) The registered occupier of any registered place of detention shall be responsible for the custody of the children and young persons detained in that place, and, if at any time he appears to be unfit or refuses to receive any child or young person committed to custody in that place, or brought to that place for custody until he can be brought before a court of summary jurisdiction, the police authority may remove from the register the premises of which he is the registered occupier.

(8.) In selecting the place of detention to which a child or young person is to be committed, the court or officer of police shall have regard, where practicable, to the religious persuasion of the child or young person.

(9.) Where it is intended to bring a person before a petty sessional court as coming, or as being a person who, if a child, would come, within one of the descriptions mentioned in sub-section one of section fifty-eight of this Act, and it is necessary that accommodation should be temporarily provided for him, a place of detention may be used for his accommodation until he can be brought before such a court in like manner as if he had been apprehended.

(10.) A police authority shall proceed to exercise the powers conferred on them by this section as soon as may be after the commencement of this Act, but the obligation to provide such places of detention as may be required for the purposes of this Act shall not become operative until the first day of January nineteen hundred and ten.

(11.) In the metropolitan police district the powers and duties conferred and imposed on a police authority under this section shall be exercised and performed, as respects London by the London County Council, as respects a county borough by the council of the borough, and elsewhere by the standing joint-committee of the county.

(12.) The Local Government Board may by order transfer from the Metropolitan Asylums Board to the London County Council any buildings provided by the Metropolitan Asylums Board for the purpose of remand homes under section four of the Youthful Offenders Act, 1901, together with any liabilities incurred by the Metropolitan Asylums Board in connection with such buildings, and on such transfer the buildings shall become places of detention for the purposes of this Part of this Act, and the order may also provide for the transfer of any officers employed by the Metropolitan Asylums Board in connection with such remand homes, and for securing to such officers any rights as to pension or otherwise to which they may be entitled.

Reformatory.—A reformatory is defined as :—“ A school for the industrial

NOTE.

Section 9. training of youthful offenders in which youthful offenders are lodged, clothed and fed, as well as taught" (Children's Act, 1908, section 44).

NOTE.

Industrial School.—An Industrial School is defined as:—"A school for the industrial training of children in which children are lodged, clothed and fed, as well as taught" (see section 44 of the Children's Act, 1908).

Inebriate Reformatory.—The Inebriates Act, 1898 (61 & 62 Vict. c. 60), s. 1, provides that:—

(1.) Where a person is convicted on indictment of an offence punishable with imprisonment or penal servitude, if the court is satisfied from the evidence that the offence was committed under the influence of drink, or that drunkenness was a contributing cause of the offence, and the offender admits that he is or is found by the jury to be a habitual drunkard, the court may, in addition to or in substitution for any other sentence, order that he be detained for a term, not exceeding three years, in any state inebriate reformatory, or in any certified inebriate reformatory, the managers of which are willing to receive him.

(2.) In any indictment under this section it shall be sufficient, after charging the offence, to state that the offender is a habitual drunkard. In the proceedings on the indictment the offender shall, in the first instance, be arraigned on so much only of the indictment as charges the said offence, and, if on arraignment he pleads guilty, or is found guilty by the jury, the jury shall, unless the offender admits that he is a habitual drunkard, be charged to inquire whether he is a habitual drunkard, and in that case, it shall not be necessary to swear the jury again.

Provided that, unless evidence that the offender is a habitual drunkard has been given before he is committed for trial, not less than seven days' notice shall be given to the proper officer of the court by which the offender is to be tried and to the offender that it is intended to charge habitual drunkenness in the indictment.

Detention in Criminal Lunatic Asylum.—It will be noted that the Act refers to a person who is detained in a criminal lunatic asylum, and does not specify a criminal lunatic detained in any other institution under the Lunacy Acts.

Effect and Duration of Orders, &c.

Effect of orders.

10. (1.) An order that a defective be sent to an institution shall authorise the conveyance of that person to and his reception in the institution mentioned in the order, at any time within fourteen days (or, if the person is in a place of safety, within twenty-one days) after the date of the order, and his detention in that institution for such period as is hereinafter mentioned, and he shall be liable to be detained in the institution accordingly.

(2.) An order that a defective be placed under guardianship shall, subject to regulations made by the Secretary of State, confer on the person named in the order as guardian such

powers as would have been exercisable if he had been the father of the defective and the defective had been under the age of fourteen, and the guardian shall also have power to warn persons against supplying intoxicants to him or for his use. Section 10.

Within 14 Days.—Compare Lunacy Act, 1890, section 36 (3), *ante*, p. 196, the time under this section for the admission of a lunatic after a reception order has been made is seven clear days.

Intoxicants.—It will be observed that section 52, *post*, p. 811, makes it an offence to supply intoxicants to a defective after warning has been received that such person is a defective, and if on request the person giving the warning produces the authority under which he acts.

11. (1.) An order made under this Act that a defective be sent to an institution or placed under guardianship shall expire at the end of one year from its date, unless continued in manner hereinafter provided : Duration of detention under orders.

Provided that in the case of any institution the Board may by order direct that orders that persons be sent thereto shall, unless continued as hereinafter provided, expire on the quarter day next after the day on which the orders would have expired under the above provision.

(2.) An order shall remain in force for a year after the date when under the preceding provisions of this section it would have expired, and thereafter for successive periods of five years, if at that date and at the end of each period of one and five years respectively the Board, after considering such special reports and certificate as is hereinafter mentioned and the report of any duly qualified medical practitioner, who, at the request of the defective or his parent or guardian or any relative or friend, has made a medical examination of the defective and the means of care and supervision which would be available if the defective were discharged consider that the continuance of the order is required in his interests and make an order for the purpose :

Provided that, where a defective was, at the time of being sent to the institution or placed under guardianship, under twenty-one years of age, the case shall be reconsidered by the visitors appointed under this Act within three months after he attains the age of twenty-one years.

(3.) On such reconsideration the visitors shall visit the defective or summon him to attend before them and inquire into his mental condition and the means of care and supervision which

Section 11. would be available if he were discharged and into all the circumstances of the case, and, if it appears to them that further detention in an institution or under guardianship is no longer required in the interests of the defective himself, shall order him to be discharged :

Provided that, if the visitors do not order his discharge, the defective or his parent or guardian may, within fourteen days after the decision of the visitors has been communicated to the defective and his parent or guardian, appeal to the Board.

(4.) The special reports above mentioned shall be—

(A) A special report by the visitors made within one month after having seen the defective as to his mental condition and the means of care and supervision which would be available if he were discharged, and stating whether, in the opinion of the visitors, the defective is still a proper person to be detained in his own interest in an institution or under guardianship ; and

(B) A special report as to the mental and bodily condition of the defective made, in the case of a person detained in an institution, by the medical officer of that institution, and in any other case by a duly qualified medical practitioner, and shall be accompanied by a certificate that the defective is still a proper person to be detained in his own interest in an institution or under guardianship, and the person sending the special report shall give to the Board such further information concerning the defective to whom the special report relates as they may require.

(5.) A certificate under the hand of the secretary to the Board that an order has been continued to the date therein mentioned shall be sufficient evidence of the fact.

An Order shall remain in Force One Year.—The practice under the Lunacy Acts is to include the date of the order and the rule as to computation of time set forth in *South Staffordshire Tramways v. Sickness and Accident &c., Association*, [1891] 1 Q. B. 402, followed in *Sheffield Corporation v. Sheffield Electric Light Co.*, [1898] 1 Ch. 203, is not followed. When the time arrives inquiry will have to be made of the Board of Control as to what date the order will expire under the Mental Deficiency Act.

Special Reports and Certificates.—In Certified Houses these reports “ shall not be made by the medical officer of the house or any medical

practitioner directly or indirectly interested in the house," section 49 (2), **Section 11.**
post, p. 809.

NOTE.

It will be noted that under this Act the machinery for keeping an order in force is in no way complicated, and in this respect it differs widely from section 38 of the Lunacy Act of 1890, as amended by the Lunacy Act of 1891, *ante*, p. 197.

Reconsideration on Defective attaining Majority. "The superintendent of a certified institution or a certified house shall, when any patient attains the age of twenty-one years, send or cause to be sent within seven days to the Board and to the visitors notice in writing of such fact." Home Secretary's Regulations, 2nd April, 1914, section 96, *post*, Appendix II.

See also Home Secretary's Regulations, 1st May, 1914, *post*, Appendix II.

The form of procedure upon the reconsideration of cases of defectives who attain the age of 21, is set forth in sections 244 to 248 of the Home Secretary's Regulations, 2nd April, 1914, *post*, Appendix II.

12. (1.) Where a defective has been placed by his parent or guardian in an institution or under guardianship, it shall be lawful for such parent or guardian to withdraw him from the institution or guardianship at any time on giving notice in writing for the purpose to the Board, unless the Board, after considering what means of care and supervision would be available if he were discharged, determine within fourteen days after receiving the notice that the further detention of the defective in the institution or under guardianship is required in the interests of the defective, and, where the Board have so determined, no further notice by the parent or guardian shall be allowed till after the expiration of six months from the last previous notice.

Duration of
detention not
under orders.

(2.) Subject to the foregoing provisions of this section, a defective who has been placed by his parent or guardian in an institution or under guardianship may be detained in the institution or under guardianship, and the case shall be reconsidered by the Board at like intervals and by the visitors, as if he had been ordered to be sent to the institution or placed under guardianship, and the provisions of the last foregoing section shall apply accordingly.

(3.) The managers of any certified institution, or house, or any approved home may discharge any defective placed there by his parent or guardian on giving one month's notice to the Board and to the parent or guardian of the defective if known.

Not under Orders.—This expression refers to defectives who have been placed in an institution on the authority of their parents or guardians without a reception order by a Justice of the Peace, Magistrate, &c.

Section 13.

Supplemental.

Power to
recover
expenses.

13. (1.) Where an order that a defective be sent to an institution or be placed under guardianship has been made under this Act, the judicial authority which made the order or any other judicial authority, or, where the order is not made by a judicial authority, any judicial authority, may, on the application of the petitioner, or of the managers of the institution or the guardian, as the case may be, or of an officer authorised by the local authority, make an order requiring the defective, or any person liable to maintain him, to contribute such sum towards the expenses of his maintenance in the institution or of his guardianship, and any charges incidental thereto, including the cost of his conveyance to the institution, and in the event of his death in the institution his funeral expenses, as, having regard to the ability of the defective or person liable to maintain him, seems reasonable.

(2.) Any such order may, on the application of the managers of the institution in which the defective is for the time being detained, or of the guardian, or of an officer authorised by the local authority, be enforced against any property of the defective or person liable to maintain him, if made by a judge of county courts, in the same way as if it were a judgment of the county court, and, if made by any other judicial authority, as if it were an order for the payment of a civil debt made by a court of summary jurisdiction.

(3.) An order made under this section may be varied or revoked by the judicial authority which made it, or any other judicial authority.

(4.) Where a defective has been placed by his parent or guardian in an institution or under guardianship, any sum which the parent or guardian has agreed in writing to contribute towards the expenses of the maintenance or guardianship of the defective shall be recoverable summarily as a civil debt.

Cf. Lunacy Act, 1890, section 132, *ante*, p. 284.

Recovery of Expenses.—The report of the Royal Commission on the Feeble-Minded recognised the fairness and expediency of orders for contribution, and it will be the duty of local authorities to obtain orders in all cases where the circumstances of the defective or his relations justify it. See Home Office Circular, 22nd December, 1913, *post*, Appendix II.

Expenses of Maintenance.—As to what are expenses of maintenance, see *Birkenhead Union v. Brookes*, 95 L. T. 358; 22 T. L. R. 583; *West Ham*

Union v. Pearson, 62 L. T. 638; *Re Clabbon*, [1904] 2 Ch. 465; 91 L. T. 316; *Islington Guardians v. Biggenden*, [1910] 1 K. B. 105; 26 T. L. R. 44; and *Re Watson, Stamford Union v. Bartlett*, [1899] 1 Ch. 72. Section 13.

NOTE.

Persons liable to Maintain.—The Children's Act (8 Edw. 7, c. 67) provides as follows:—

Section 127. (1.) Where a child or young person is by an order of any court made under this Act removed from the care of any person, and that person is entitled under any trust to receive any sum of money in respect of the maintenance of the child or young person, the court may order the whole or any part of the sums so payable under the trust to be paid to the person to whose care the child or young person is committed, to be applied by that person for the benefit of the child or young person in such manner as, having regard to the terms of the trust, the court may direct.

(2.) An appeal shall lie from an order of a court of summary jurisdiction under this section to quarter sessions.

14. The persons liable to maintain a defective under the age of twenty-one against whom an order to contribute towards his maintenance may be made under this Act shall include in the case of illegitimacy his putative father and, if the judicial authority having cognisance of the case thinks fit, a person other than his putative father cohabiting with his mother: Provided that, where a defective is an illegitimate, and an affiliation order for his maintenance has previously been made on the application of his mother under the enactments relating to bastardy, the judicial authority shall not (unless in view of the special circumstances of the case he thinks it desirable) make an order for contribution against the putative father, but may order the whole or any part of the payments accruing due under the affiliation order to be made to the local authority or such other person as may be named in the order, to be applied towards the maintenance of the defective. Provision as to contribution orders.

Persons Liable to Maintain a Defective.—Section 125 of the Children's Act, 1908 (8 Edw. 7, c. 67), makes the following provisions:—

Section 125. The persons liable to maintain a youthful offender, young person, or child, against whom an order to contribute to the maintenance of the youthful offender, young person, or child may be made under this Act shall include his step-parent, and if the court having cognisance of the case thinks fit, a person cohabiting with his mother, whether or not the person so cohabiting is his putative father, and in the case of illegitimacy his putative father.

Provided that where the youthful offender, young person, or child is illegitimate and an affiliation order for his maintenance has previously been made on the application of his mother under the enactments relating to bastardy, the court shall not (unless in view of the special circumstances

Section 14. of the case the court thinks it desirable) make an order for contribution against the putative father, but may order the whole or any part of the payments accruing due under the affiliation order to be made to the chief inspector of reformatory and industrial schools or such other person as may be named in the order, to be applied by him towards the maintenance of the youthful offender, young person, or child.

NOTE.

Enactments relating to Bastardy.—Sections 3—5 of the Bastardy Laws Amendment Act, 1872 (35 & 36 Victoria, Ch. 65), make the following provisions :—

3. Any single woman who may be with child or who may be delivered of a bastard child after the passing of this Act may either before the birth or at any time within twelve months from the birth of such child, or at any time thereafter, upon proof that the man alleged to be the father of such child has within the twelve months next after the birth of such child paid money for its maintenance, or at any time within the twelve months next after the return to England of the man alleged to be the father of such child, upon proof that he ceased to reside in England within the twelve months next after the birth of such child, make application to any one justice of the peace acting for the petty sessional division of the county, or for the city, borough, or place in which she may reside for a summons to be served on the man alleged by her to be the father of the child, and if such application be made before the birth of the child the woman shall make a deposition upon oath stating who is the father of such child, and such justice of the peace shall thereupon issue his summons to the person alleged to be the father of such child to appear at a petty session to be holden after the expiration of six days at least for the petty sessional division, city, borough, or other place in which such justice usually acts.

4. After the birth of such bastard child, on the appearance of the person so summoned, or on proof that the summons was duly served on such person, or left at his last place of abode six days at least before the petty session, the justices in such petty session shall hear the evidence of such woman and such other evidence as she may produce, and shall also hear any evidence tendered by or on behalf of the person alleged to be the father, and if the evidence of the mother be corroborated in some material particular by other evidence to the satisfaction of the said justices, they may adjudge the man to be the putative father of such bastard child and they may also, if they see fit, having regard to all the circumstances of the case proceed to make an order on the putative father for the payment to the mother of the bastard child, or to any person who may be appointed to have the custody of such child, under the provisions of the said recited Act, of a sum of money weekly, not exceeding five shillings a week, for the maintenance and education of the child, and of the expenses incidental to the birth of such child, and of the funeral expenses of the child, provided it has died before the making of such order, and of such costs as may have been incurred in the obtaining of such order ; and if the application be made before the birth of the child, or within two calendar months after the birth of the child, such weekly sum may, if the said justices think fit, be calculated from the birth of the child, and if at any time after the expiration of one calendar month from the making of such order as aforesaid it be

made to appear to any one justice, upon oath or affirmation that any sum to be paid in pursuance of such order has not been paid, such justice may, by warrant under his hand and seal, cause such putative father to be brought before any two justices, and in case such putative father neglect or refuse to make payment of the sums due from him under such order, or since any commitment for disobedience to such order as hereinafter provided, together with the costs attending such warrant, apprehension, and bringing up of such putative father, such two justices may, by warrant under their hands and seals, direct the sum so appearing to be due, together with such costs, to be recovered by distress and sale of the goods and chattels of such putative father, and may order such putative father to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless he give sufficient security, by way of recognisance or otherwise, to the satisfaction of such justices, for his appearance before two justices on the day which may be appointed for the return of such warrant of distress, such day not being more than seven days from the time of taking any such security, but if upon the return of such warrant, or if by the admission of such putative father, it appear that no sufficient distress can be had, then any such two justices may, if they see fit, by warrant under their hands and seals, cause such putative father to be committed to the common gaol or house of correction of the county, city, borough, or place where they have jurisdiction, there to remain, without bail or mainprize, for any term not exceeding three calendar months unless such sum and costs, and all reasonable charges attending the said distress, together with the costs and charges attending the commitment and conveying to gaol or to the house of correction, and of the persons employed to convey him thither, be sooner paid and satisfied.

Section 14.

NOTE.

5. No order for the maintenance and education or for contribution towards the relief of any such child made in pursuance of this Act shall, except for the purpose of recovering money previously due under such order, be of any force or validity after the child in respect of whom it was made has attained the age of thirteen years, or after the death of such child; provided that the justices may in the order direct that the payments to be made under it in respect of the child shall continue until the child attains the age of sixteen years, in which case such order shall be in force until that period.

15. (1.) If any officer of the local authority authorised in that behalf or any constable finds neglected, abandoned, or without visible means of support or cruelly treated any person whom he has reasonable cause to believe to be a defective, he may take such person to a place of safety, and such person may be there detained until a petition under this Act can be presented.

Power to remove to place of safety pending presentation of petition.

(2.) If it appears to a justice on information on oath laid by an officer or other person authorised by the local authority that there is reasonable cause to believe that a defective is neglected or cruelly treated in any place within the jurisdiction

Section 15, of the justice, the justice may issue a warrant authorising any constable named therein, accompanied by the medical officer of the local authority or any other duly qualified medical practitioner named in the warrant, to search for such person, and, if it is found that he is neglected or cruelly treated, and is apparently defective, to take him to and place him in a place of safety until a petition can be presented under this Act, and any constable authorised by such warrant may enter, and if need be by force, any house, building, or other place specified in the warrant, and may remove such person therefrom.

(3.) Where the place to which such a person is taken is a workhouse the master shall receive him into the workhouse if there is suitable accommodation therein, and any expenses incurred in respect of him shall be defrayed by the local authority, but shall, if an order is eventually made, be recoverable from the defective or any person liable to maintain him as if they were part of the expenses of his maintenance.

The procedure in sub-section (2) should be adopted when there are reasonable grounds for suspecting that a defective is being neglected or ill-used, and to whom access is refused. See Home Office Circular, 22nd December, 1913, *post*, Appendix II. See also note to section 30 (a), *post*, p. 787.

Transfers
from institu-
tions for
defectives to
institutions
for lunatics
and *vice*
versâ.

16. (1.) Where the mental condition of a person detained in an institution for defectives becomes or is found to be such that he ought to be transferred to an institution for lunatics, the Board, or the managers of the institution for defectives with the consent of the Board, shall cause such steps to be taken as may be necessary for having a reception order under the Lunacy Acts, 1890—1911, made in respect of him and for his removal to an institution for lunatics: Provided that, where such person has been placed in the institution by his parent or guardian, the Board or managers, as the case may be, shall not cause such steps to be taken until they have given the parent or guardian, wherever practicable, an opportunity of taking them himself.

(2.) Where the mental condition of a person detained in an institution for lunatics is found to be such that he ought to be transferred to an institution for defectives, the Board, or the managers of the institution for lunatics with the consent of the Board, may cause such steps to be taken as may be necessary for having an order that he be sent to an institution for defectives

made under this Act in respect of him and for his removal to Section 16.
such institution.

(3.) The Board may, subject to the approval of the Secretary of State, make regulations for carrying this section into effect.

Reception Order.—See definition of reception order, Lunacy Act, 1890, s. 341, *ante*, p. 453.

Institution for Lunatics means “an asylum, hospital, or licensed house.” Lunacy Act, 1890, s. 341, *ante*, p. 450.

17. (1.) The judicial authority, court, or Secretary of State, in determining the institution to which a defective is to be sent under an order, shall endeavour to ascertain the religious persuasion to which the defective belongs, and the order shall, where practicable, specify the religious persuasion to which he appears to belong, and an institution conducted in accordance with that persuasion shall, where practicable, be selected. Provisions as
to religious
persuasion.

(2.) A minister of the religious persuasion specified in the order as that to which the defective appears to belong may visit the defective at the institution on such days, at such times, and on such conditions as may be fixed by the Board, for the purpose of affording religious assistance and also for the purpose of instructing him in the principles of his religion.

(3.) Where a defective is sent to an institution which is not conducted in accordance with the religious persuasion to which the defective belongs, the defective shall not be compelled to receive religious instruction or religious ministrations which are not in accordance with his religious persuasion, but shall, as far as practicable, have facilities for receiving religious instruction and attending religious services conducted in accordance with his religious persuasion.

(4.) Where an order is made for sending a defective to an institution which is not conducted in accordance with the religious persuasion to which he belongs, the nearest adult relative, or in the case of a child his guardian or person entitled to his custody, may apply to the Board to remove or send the defective to an institution conducted in accordance with the defective's religious persuasion, and the Board shall, on proof of the defective's religious persuasion, comply with the request of the applicant: Provided that the applicant must show to the satisfaction of the Board that the managers of the institution

Section 17. named by him are willing to receive the defective and that the institution is one suitable to the case.

Facilities for receiving Religious Instruction and attending Religious Services.—"The Committee shall submit to the Board the arrangements they propose for the holding of religious services, and for securing as far as is practicable that religious services shall be held for, and religious instruction given to, the patients according to their religious persuasion, and such arrangements as are approved by the Board shall be observed" (Home Secretary's Regulations, 2nd April, 1914, for the Management of Certified Institutions provided by the Local Authority, section 119, *post*, Appendix II.).

Person Entitled to the Custody of a Defective.—The Poor Law Act, 1889 (52 & 53 Vict. c. 56), makes the following provisions:—

1. (3.) For the purposes of this Act a child shall be deemed to be maintained by the guardians if it is wholly or partly maintained by them in a workhouse or in any district school, separate school, separate infirmary, sick asylum, hospital for infectious diseases, institution for the deaf, dumb, blind, or idiots, or any certified school under the Act of the session of the twenty-fifth and twenty-sixth years of the reign of her present Majesty, chapter forty-three, or is boarded out by the guardians, whether within or without the limits of the union.

(5.) Nothing in this section shall relieve any person from any liability to contribute to the maintenance of a child, but the fact of such contribution being made shall not deprive the guardians of any of the powers and rights conferred on them by this section.

(6.) Nothing in this section shall authorise the guardians to cause a child to be educated in any religious creed other than that in which the child would have been educated but for any resolution of the guardians under this section, nor affect the enactments respecting the religious education of a child maintained by the guardians, or respecting the right of any minister of the same religious persuasion as the child to visit and instruct the child, nor affect any of the enactments specified in the Schedule to this Act, which enactments relate to the religious education of children maintained by guardians.

See also section 1, sub-sections 1 and 2 of the Poor Law Act, 1889, 52 & 53 Vict. Ch. 56.

Provisions as to visiting of defectives.

18. The nearest adult relative or the guardian of a defective in an institution or under guardianship under this Act shall be entitled to visit the defective at such times and at such intervals (not exceeding six months) and on such conditions as may be prescribed, except where, owing to the character and antecedents of the person proposing to visit the defective, the Board consider that such a visit would be contrary to the interests of the defective.

Visitation by Relatives.—Compare Lunacy Act, 1890, s. 47, *ante*, p. 208. See also section 25 (1) (d) of this Act, *post*, p. 783, as to the visitation by the

Commissioners, &c. The Regulations relating hereto are numbered 102—Section 18.
107. Home Secretary's Regulations, 2nd April, 1914, *post*, Appendix II.

NOTE.

19. (1.) Any judge of county courts, police or stipendiary magistrate, or specially appointed justice who is a judicial authority for the purposes of the Lunacy Acts, 1890—1911, shall be a judicial authority for the purposes of this Act, and the number of justices specially appointed to be judicial authorities under those Acts shall be such as may be considered necessary to exercise the powers conferred by this Act as well as by those Acts on a judicial authority.

(2.) Every judicial authority shall, in the exercise of the jurisdiction conferred by this Act, have the same jurisdiction and power as regards the summoning and examination of witnesses, the administration of oaths, costs and otherwise, as if he were acting in the exercise of his ordinary jurisdiction, and shall be assisted, if he so requires, by the same officers as if he were so acting, and their assistance under this Act shall be considered in fixing their remuneration.

Judicial Authority.—For the definition, &c., of the judicial authority, see Lunacy Act, 1890, ss. 9—10, *ante*, pp. 164, 165. See also Lunacy Act, 1891, ss. 24—25, *ante*, pp. 485, 486, for extended jurisdiction of such official.

20. The Secretary of State may make regulations with respect to— Regulations as to procedure forms, &c.

- (A) the procedure on petitions under this Act ;
- (B) the procedure on applications for orders to vary or revoke orders previously made under this Act ;
- (C) the procedure on applications for orders for contributions towards the maintenance of a person in an institution or under guardianship ;
- (D) the procedure on the reconsideration by visitors of the cases of defectives on their attaining the age of twenty-one, and on appeals from the visitors to the Board ;
- (E) the forms of petitions, statutory declarations, certificates, orders, and other documents required for the purposes of this Part of this Act.

PART II.

CENTRAL AND LOCAL AUTHORITIES.

Central Authority.

Section 21. **21.** The Board of Control hereinafter constituted shall, subject to the provisions of this Act, be charged with the general superintendence of matters relating to the supervision, protection, and control of defectives :

Central
authority.

Provided that, save as otherwise expressly provided by this Act, nothing in this Act shall affect any power exercisable with respect to lunatics by the Lord Chancellor or the Commissioners in Lunacy, or the Judge or Masters in Lunacy, or by any visitors, court, local authority or other persons, whether under the Lunacy Acts, 1890—1911, or otherwise.

“ The constitution of one central authority for the general protection and supervision of the whole class of mentally defective persons, and for the regulation of the provision made for their accommodation, maintenance, care, treatment, training and control, and that such central authority should be called the Board of Control, and the members thereof Commissioners of the Board of Control, were specific recommendations of the Report of the Royal Commission on the Care and Control of the Feeble-Minded in 1908.” Sixty-eighth report of the Commissioners in Lunacy, Part I., p. 2.

Establish-
ment of Com-
missioners.

22. (1.) There shall be constituted a Board of Control consisting of not more than fifteen Commissioners, of whom not more than twelve shall be paid Commissioners, and of the paid Commissioners four shall be legal Commissioners (that is to say, practising barristers or solicitors of at least five years' standing) and four at least shall be medical Commissioners (that is to say, duly qualified medical practitioners of at least five years' standing) and at least one of the paid and one of the unpaid Commissioners shall be a woman.

(2.) The Commissioners shall be appointed by His Majesty on the recommendation, as respects the legal Commissioners, of the Lord Chancellor, and, as respects the other Commissioners, of the Secretary of State ; and in making such recommendation regard shall be had to the desirability of the inclusion amongst the Commissioners of persons specially qualified to hold inquiries amongst Welsh-speaking persons.

(3.) The Secretary of State shall appoint one of the Commissioners to be chairman.

(4.) The Board of Control so constituted shall be a body **Section 22.** incorporate by the name of "The Board of Control," with a common seal and with power to hold land without licence in mortmain for the purposes of their powers and duties.

(5.) If the Secretary of State so directs and subject to any regulations made by him, the Board shall appoint an administrative committee, and to such committee shall be entrusted such of the administrative powers and duties of the Board as are mentioned in the Schedule to this Act.

(6.) Subject as aforesaid, any act or thing required or authorised by this Act to be done by the Board or the Commissioners may be done by any one or more of the Commissioners as the Secretary of State may by general or special order direct.

(7.) There shall be paid to the Chairman and to such number, not exceeding eleven, of the Commissioners as the Secretary of State, with the consent of the Treasury, may determine, such salaries or other remuneration as the Secretary of State, with the like consent, may fix: Provided that, in the case of the Chairman, such salary shall not exceed eighteen hundred pounds a year, in the case of the Commissioners other than the Chairman, such salary shall not exceed the sum of fifteen hundred pounds a year, but may begin at such lower sum as the Secretary of State with the consent of the Treasury may fix.

(8.) The Chairman and paid Commissioners shall hold office during His Majesty's pleasure. The unpaid Commissioners shall hold office for such term as the Secretary of State may determine.

(9.) The persons who immediately before the commencement of this Act hold office as paid Commissioners in Lunacy, shall, by virtue of their office, become as from the commencement of this Act paid Commissioners of the Board of Control, and shall, notwithstanding anything in this section, continue to hold their offices by the like tenure and be entitled to the like salary as if they continued to hold the same offices as they held before the commencement of this Act.

"While under section 22 of the Mental Deficiency Act, the status of the existing paid Commissioners in Lunacy is preserved, the new paid Commissioners hold their office during His Majesty's pleasure, and thus become for all purposes civil servants and subject to the conditions prescribed by various Orders in Council relating to Civil Servants, one of which makes retirement compulsory at the age of 65. The new honorary Commissioners

Section 22. will be appointed for a specified period. The addition of women to the Board is a new departure, from which very satisfactory results are anticipated. Solicitors are eligible as legal Commissioners, and it is not essential that the Secretary should be a barrister-at-law of at least seven years' standing as was required in the case of the Secretary to the Lunacy Commissioners under the Lunacy Acts, but it will probably be found inadvisable in practice to appoint to the post any one who has not had a legal training." Sixty-eighth report of the Commissioners in Lunacy, Part I., p. 2.

NOTE.

See also Order in Council dated 9th March, 1914, cited at the beginning of Appendix II.

Secretary,
inspectors,
and officers.

23. (1.) The Board shall be assisted in the performance of their duties by a secretary and by such inspectors and other officers and servants as the Secretary of State, with the consent of the Treasury as to number, may determine. Such inspectors and other officers and servants shall include women as well as men.

(2.) The secretary, inspectors, and other officers and servants shall be appointed by the Board, subject to the approval of the Secretary of State.

(3.) There shall be paid to the secretary, inspectors, officers, and servants of the Board such salaries or remuneration as the Secretary of State, with the consent of the Treasury, may determine.

Disqualifica-
tions.

24. (1.) A person shall not be qualified to be a Commissioner, or an inspector, secretary, officer, or servant of the Board, if he is directly or indirectly interested in any certified institution or house, or approved home under this Act, or in any house licensed under the Lunacy Acts, 1890—1911, and any Commissioner, inspector, secretary, or officer who becomes so interested shall be disqualified to hold office.

(2.) If any person holding any such office as aforesaid acts when he is disqualified under the provisions of this section, he shall be guilty of a misdemeanor.

General
powers and
duties of
Commis-
sioners.

25. (1.) Subject to regulations made by the Secretary of State, the Board shall—

- (A) exercise general supervision, protection, and control over defectives ;
- (B) supervise the administration by local authorities of their powers and duties under this Act ;
- (C) certify, approve, supervise, and inspect institutions, houses, and homes for defectives, and all arrangements

made for the care, training, and control of defectives therein ; Section 25.

- (D) visit, either through one or more Commissioners or through their inspectors, defectives in institutions and certified houses and approved homes, or under guardianship, or (with a view to their certification) elsewhere, and persons who have been placed under the care of any person as being defectives ;
- (E) provide and maintain institutions for defectives of dangerous or violent propensities ;
- (F) to take such steps as may be necessary for ensuring suitable treatment of cases of mental deficiency ;
- (G) make annual reports (to be presented to Parliament) and such special reports as the Secretary of State may from time to time require ;
- (H) administer, in accordance with this Act, grants made out of money provided by Parliament under this Act.

(2) Without prejudice to their powers and duties under any regulations which the Secretary of State may make for further or more frequent inspection and visitation, it shall be the duty of the Board, through one or more Commissioners to inspect every certified institution, certified house, and approved home at least once in each year, and either through themselves or their inspectors to inspect every certified institution, certified house, and approved home one additional time in each year and every defective under guardianship, at least twice in every year, and any Commissioner shall have power to discharge at any time any person detained in a certified institution or certified house or under guardianship under this Act.

Provided that a Commissioner shall not exercise such power of discharge without the consent of the Secretary of State in the case of a person sent to such an institution by order of the Secretary of State from a prison, criminal lunatic asylum, place of detention, reformatory or industrial school, or inebriate reformatory, so long as the term for which he was committed to the prison or other place from which he was transferred remains unexpired.

Visitation and Inspection.—The duties of the Commissioners and Inspectors upon their visits to certified houses will be found in the Home Secretary's Regulations, 2nd April, 1914, sections 174—179, those relating

Section 25. to certified institutions are contained in sections 180—183, the inspection of approved homes is dealt with in sections 194—200, and the visitation of defectives under guardianship is set forth in sections 218—225, *post*, Appendix II.

NOTE.

Expenses of
central
authorities.

26. The salaries or other remuneration of the Commissioners and the officers of the Board, and any other expenses incurred by the Secretary of State or the Board in carrying this Act into effect, to such amount as may be sanctioned by the Treasury shall be defrayed out of moneys provided by Parliament.

Local Authorities.

Local
authorities.

27. The local authority for the purposes of this Act shall, as respects a county, be the council of the county, and, as respects a county borough, be the council of the borough.

Committees
for the care
of defectives.

28. (1.) Every local authority shall constitute a committee for the purposes of this Act, hereinafter called the committee for the care of the mentally defective, consisting of such members of the council appointed by the council as the council may determine, and of such persons, not being members of the council, but being poor law guardians or other persons having special knowledge and experience with respect to the care, control, and treatment of defectives, appointed by the council as the council may determine, and of the persons so appointed some shall be women, and of the whole committee the majority shall be members of the council :

Provided that, where a local authority has appointed one or more visiting committees or asylums committees under the Lunacy Acts, 1890—1911, then, if the council so determine—

(A) the members of such committee or committees shall, with the addition of at least two women, act also as the committee for the care of the mentally defective ;
or

(B) the members of such committee or committees shall be the members of the council appointed by the council to be members of the committee for the care of the mentally defective.

(2.) All matters relating to the exercise by the local authority of their powers under this Act (except the power of raising a rate or borrowing money) shall stand referred to the committee for the care of the mentally defective, and the local authority before exercising any such powers shall, unless in their opinion

the matter is urgent, receive and consider the report of the committee with respect to the matter in question. The local authority may also delegate to the committee, with or without any restrictions as they think fit, any of their powers under this Act, except the power of raising a rate or borrowing money.

(3.) A person shall be disqualified for being a member of the committee for the care of the mentally defective who by reason of holding an office or place of profit, or having any share or interest in a contract or employment, is disqualified for being a member of the council appointing the committee, but no such disqualification shall apply to a person by reason only of his holding office in a school or college aided, provided, or maintained by the council.

Visiting Committees.—See sections 169—176 of the Lunacy Act, 1890, *ante*, pp. 309—313.

29. (1.) Where on such application as is hereinafter mentioned it appears to the Secretary of State that two or more local authorities should join for the purpose of the exercise and performance of any of their powers and duties under this Act, the Secretary of State, with the concurrence of the Local Government Board, shall have power by order to make such provisions as appear to him necessary or expedient by the constitution of a joint committee or joint board or otherwise, for the joint exercise and performance of all or any of the powers under this Act of such local authorities; and any such order may provide how, and in what proportions, and out of what funds or rates, the expenses incurred in the joint exercise and performance of such powers are to be defrayed, and may contain such incidental, consequential, and supplemental provisions (including provisions adapting any of the provisions of this Act to the case of any committee or board so constituted) as may be necessary for the purposes of the order. Joint action.

(2.) An order under this section for the joint exercise and performance of all or any of the powers under this Act of two or more local authorities may be made on the application of one or more of such authorities, but, unless all such authorities agree to the making of such order, it shall be provisional only, and shall not have effect unless confirmed by Parliament.

(3.) Any such order shall remain in operation for the period

Section 29, (if any) named therein, or, if no period is so named, until it is determined by mutual agreement between the local authorities concerned with the consent of the Secretary of State : Provided that any such order may be revoked or varied by an order made on a like application and subject to the like provisions as the original order.

(4.) Sections two hundred and ninety-seven and two hundred and ninety-eight of the Public Health Act, 1875 (which relate to the making of Provisional Orders by the Local Government Board), shall, with the necessary modifications, apply for the purposes of this Act as if they were herein re-enacted and in terms made applicable thereto.

Provisional Orders by the Local Government Board.—The sections of the Public Health Act, 1875 (38 & 39 Vict. c. 55), referred to are :—

297. With respect to provisional orders authorised to be made by the Local Government Board under this Act, the following enactments shall be made :—

(1.) The Local Government Board shall not make any provisional order under this Act unless public notice of the purport of the proposed order has been previously given by advertisement in two successive weeks in some local newspaper circulating in the district to which such provisional order relates.

(2.) Before making any such provisional order, the Local Government Board shall consider any objections which may be made thereto by any persons affected thereby, and in cases where the subject-matter is one to which a local inquiry is applicable, shall cause to be made a local inquiry, of which public notice shall be given in manner aforesaid, and at which all persons interested shall be permitted to attend and make objections.

(3.) The Local Government Board may submit to Parliament for confirmation any provisional order made by it in pursuance of this Act, but any such order shall be of no force whatever unless and until it is confirmed by Parliament.

(4.) If while the bill confirming any such order is pending in either House of Parliament a petition is presented against any order comprised therein, the bill, so far as it relates to such order, may be referred to a select committee, and the petitioner shall be allowed to appear and oppose as in the case of private bills.

(5.) Any act confirming any provisional order made in pursuance of any of the Sanitary Acts or of this Act, and any order in council made in pursuance of any of the Sanitary Acts, may be repealed, altered, or amended by any provisional order made by the Local Government Board and confirmed by Parliament.

(6.) The Local Government Board may revoke, either wholly or partially, any provisional order made by them before the same is confirmed by Parliament, but such revocation shall not be made whilst the bill confirming the order is pending in either House of Parliament.

(7.) The making of a provisional order shall be *prima facie* evidence that all the requirements of this Act in respect of proceedings required to be taken previously to the making of such provisional order have been complied with. Section 29.

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NOTE.

(8.) Every Act confirming any such provisional order shall be deemed to be a public general Act.

298. The reasonable costs of any local authority in respect of provisional orders made in pursuance of this Act, and of the inquiry preliminary thereto, as sanctioned by the Local Government Board, whether in promoting or opposing the same, shall be deemed to be expenses properly incurred for purposes of this Act by the local authority interested in or affected by such provisional orders, and such costs shall be paid accordingly, and if thought expedient by the Local Government Board, the local authority may contract a loan for the purpose of defraying such costs.

30. The local authority are hereby empowered, and it shall be their duty, subject to the provisions of this Act and to regulations made by the Secretary of State— General powers and duties of local authorities.

- (A) to ascertain what persons within their area are defectives subject to be dealt with under this Act otherwise than under paragraph (A) of sub-section one of section two of this Act ;

As to local authorities and their powers, &c., see Local Government Board Circular, 31st March, 1914, *post*, Appendix II.

This section does not confer upon the officers of local authorities the right to make domiciliary visitations without the consent of the occupiers, or to make inquiries which might reasonably be regarded as inquisitorial and objectionable. See Home Office Circular, 22nd December, 1913, *post*, Appendix II. But see section 15 (2), *ante*, p. 775, as to obtaining such right.

“The sources of information most commonly available to the officers of Local Authorities will be:—Police and Poor Law Authorities; hospitals, dispensaries and sanatoria, and medical practitioners; common lodging houses, shelters, refuges and charitable institutions; local societies working for the benefit of defectives, for the prevention of cruelty to children and so forth; ministers of religion, probation officers and district nurses and visitors; labour exchanges, friendly societies and working-class organisations; and Insurance Committees.” Circular of Board of Control, 2nd April, 1914, *post*, Appendix II.

- (B) to provide suitable supervision for such persons, or if such supervision affords insufficient protection, to take steps for securing that they shall be dealt with by being sent to institutions or placed under guardianship in accordance with this Act ;
- (C) to provide suitable and sufficient accommodation for such persons when sent to certified institutions by orders under this Act, and for their maintenance therein,

Section 30.

and for the conveyance of such persons to and from such institutions ;

- (D) to make provision for the guardianship of such persons when placed under guardianship by orders under this Act ;
- (E) if they think fit, to maintain in an institution or approved home or contribute towards the expenses of maintenance in an institution or approved home or the expenses of guardianship of any defectives other than aforesaid ;
- (F) if they think fit, to provide for the burial of persons dying in an institution or when placed under guardianship in accordance with this Act ;
- (G) to appoint or employ sufficient officers and other persons to assist them in the performance of their duties under this Act ;

As to the duties under (a), (b), (c), (d) and (g) which involve expenditure, contributions will be made by the Board. See Circular to County and County Borough Councils from the Board of Control, 2nd April, 1914, *post*, Appendix II. Contributions cannot be made for carrying out permissive powers.

- (H) to make to the Board annual reports and such other reports as the Board may require ;

Provided that—

- (i.) nothing in this Act shall be construed as imposing any obligation on a local authority to perform the duties mentioned in paragraphs (B), (C), (D), and (G), aforesaid where the contribution out of moneys provided by Parliament under this Act towards the cost on income account of performing such duties is less than one-half of the net amount (as approved by the Board) of such cost ;
- (ii.) nothing in this Act shall affect the powers and duties of poor law authorities under the Acts relating to the relief of the poor, with respect to any defectives who may be dealt with under those Acts ; nor the right of poor law authorities to receive the same grant for a defective who has been, or may be, sent to an institution, that they would have received if the Idiots Act, 1886, had not been repealed ; nor shall local authorities under this Act have any

duties with respect to defectives who for the time being are being provided for by such authorities as aforesaid, except to such extent as may be prescribed by regulations made by the Secretary of State with the concurrence of the Local Government Board ;

See Provisional Regulations made by the Secretary of State with the concurrence of the Local Government Board, 20th March, 1914, *post*, Appendix II.

- (iii.) nothing in this Act shall affect the powers and duties of local authorities under the Lunacy Acts, 1890—1911, with respect to any defectives who may be dealt with under those Acts, nor shall local authorities under this Act have any duties or powers with respect to defectives who for the time being are, or who might be, provided for by such authorities as aforesaid except to such extent as may be prescribed by regulations made by the Secretary of State with the concurrence of the Lord Chancellor ;

See Provisional Regulations made by the Secretary of State with the concurrence of the Lord Chancellor, 20th March, 1914, *post*, Appendix II.

- (iv.) nothing in this Act shall affect the duties or powers of local education authorities under the Education Acts ; and the duty of ascertaining what children over the age of seven and under the age of sixteen (hereinafter referred to as defective children) are defectives shall rest with the local education authority as hereinafter provided and not with the local authority under this Act ; and such last-mentioned authorities shall have no duties as respects defective children, except those whose names and addresses have been notified to them by the local education authority under the provisions of this Act.

Powers and Duties of Local Authorities.—It will be noticed that this section, in common with other parts of the Act, does not aim at compulsion.

“ Of these duties and powers only (a) and (h) are obligatory, the rest are optional (section 30, sub-section 1). (a) For the exercise of their optional

(a) “ Unless the grant (out of the £150,000) to the Local Authority, towards the cost on income account is half the net approved amount of such costs. In practice this will be impossible. Even if it is possible, then only (b), (c), (d), and (g) will be affected.”—*Law Quarterly Review*, April, 1914, p. 209.

Section 30.

NOTE.

powers, local authorities are empowered to raise a sum that shall not exceed the equivalent of a halfpenny rate. In other words, section 30 means that a local authority can be compelled to do nothing save find out what defectives are subject to section 2, sub-section 1 (B), and to report annually on them to the Board. If they choose to provide accommodation, maintenance, and supervision, to appoint officials, and to pay funeral expenses, they may do so, but only up to the value of a halfpenny rate." *Law Quarterly Review*, April, 1914, p. 209.

The Duties of Local Authorities under the Lunacy Acts, 1890—1911.—The local authority is defined in section 240 of the Lunacy Act, 1890, *ante*, p. 359, and sections 241—246 deal with the powers of the local authority for providing asylums. See also section 13 of the Lunacy Act, 1891, *ante*, p. 170.

Local Education Authorities under the Education Act.—The Education Act, 1902 (2 Edw. 7, c. 42), provides as follows:—

1. For the purposes of this Act, the council of every county and of every county borough shall be the local education authority:

Provided that the council of a borough with a population of over ten thousand or of an urban district with a population of over twenty thousand shall, as respects that borough or district, be the local education authority for the purpose of Part III. of this Act, and for that purpose, as respects that borough or district, the expression "local education authority" means the council of that borough or district.

Duties of
local educa-
tion authori-
ties.

31. (1.) The duties of a local education authority shall include a duty to make arrangements, subject to the approval of the Board of Education,—

(A) for ascertaining what children within their area are defective children within the meaning of this Act;

See Board of Education's Circular, 30th March, 1914, *post*.

(B) for ascertaining which of such children are incapable by reason of mental defect of receiving benefit or further benefit from instruction in special schools or classes;

(C) for notifying to the local authority under this Act, the names and addresses of defective children with respect to whom it is the duty of the local education authority to give notice under the provisions hereinbefore contained.

In case of doubt as to whether a child is or is not capable of receiving such benefit as aforesaid, or whether the retention of a child in a special school or class would be detrimental to the interests of the other children, the matter shall be determined by the Board of Education.

(2.) The provisions of section 1 of the Elementary Education

(Defective and Epileptic Children) Act, 1899, shall apply with **Section 31.**
the necessary modifications for the purposes of this section. 62 & 63 Vict.
c. 32.

The Elementary Education (Defective and Epileptic Children) Act, 1899
(62 & 63 Vict. c. 32), provides as follows :—

(1.) A school authority as defined by the Elementary Education (Blind and Deaf Children) Act, 1893, may with the approval of the Education Department make such arrangements as they think fit for ascertaining—

(A) what children in their district not being imbecile and not being merely dull or backward are defective, that is to say, what children by reason of mental or physical defect are incapable of receiving proper benefit from the instruction in the ordinary public elementary schools, but are not incapable by reason of such defect of receiving benefit from instruction in such special classes or schools as are in this Act mentioned ; and

(B) what children in their district are epileptic children, that is to say, what children not being idiots or imbeciles are unfit by reason of severe epilepsy to attend the ordinary public elementary schools.

(2.) The school authority in making their arrangements under this section shall provide facilities for enabling any parent who is of opinion that his child ought to be dealt with under this Act to present such child to the school authority to be examined, although he may not have been required so to do by that authority, and any school authority failing to provide such facilities shall be deemed to have acted in contravention of this Act.

(3.) For the purpose of ascertaining whether a child is defective or epileptic within the meaning of this section, a certificate to that effect by a duly qualified practitioner approved by the Education Department shall be required in each case. The certificate shall be in such form as may be prescribed by the Education Department.

(4.) For the purpose of the exercise of the powers conferred by this section it shall be the duty of the parent of any child who may be required by the school authority to be examined to cause the child to attend such examination, and any person who fails to comply with such requirement shall be liable on summary conviction to a fine not exceeding five pounds.

32. (1.) If the Board report to the Secretary of State that a local authority have made default in the performance of any of their duties under this Act, the Secretary of State may, after holding a local inquiry in any case where he deems it desirable to do so, and on being satisfied that such default has taken place, by order require the local authority to do such acts and things for remedying the default as he may direct, and any such order may be enforced by mandamus. Power of Secretary of State to act in default.

(2.) Any expenses incurred by or on behalf of the Secretary of State under any such order or in respect of any such default,

Section 32. or in respect of any such inquiry, shall, if the Secretary of State so directs, be expenses of the local authority, and the treasurer or other proper officer of the local authority shall pay the amount of such expenses to the Secretary of State within two months after demand, and in default of payment the amount thereof shall be recoverable as a debt due to the Crown.

(3.) An order of the Secretary of State shall be conclusive in respect of any default, amount of expenses, and any other matter therein stated or appearing; but nothing in this provision shall prejudice or affect the right or power of the Secretary of State or any other authority or person to take any other proceedings for requiring a local authority to perform their duties under this Act.

Expenses and
borrowing by
local autho-
rities.

33. (1.) The expenses of a local authority under this Act shall be defrayed, in the case of a county council out of the county fund, and in the case of a county borough council out of the borough fund or borough rate, or, if no borough rate is levied, out of a separate rate to be made, assessed, and levied in like manner as the borough rate :

Provided that the expenses incurred by a local authority in the exercise of their powers under this Act for purposes other than the fulfilment of their obligations under this Act shall not in any one year exceed an amount equal to that which would be produced by a rate of one halfpenny in the pound on the property liable to be assessed for the purpose as assessed for the time being for the purposes of that rate.

(2.) A local authority may borrow for the purposes of this Act in the case of a county council, as for the purposes of the Local Government Act, 1888, and in the case of a county borough council, as for the purposes of the Public Health Acts ; but in the application of section sixty-nine of the Local Government Act, 1888, to money borrowed by a county council under this Act a period not exceeding sixty years shall be substituted for a period not exceeding thirty years as the maximum period within which money borrowed is to be repaid, and the money borrowed by a county borough council shall be borrowed on the security of the fund or rate out of which the expenses of the council under this Act are payable.

(3.) Money borrowed under this Act shall not be reckoned as part of the total debt of a county for the purposes of section sixty-nine of the Local Government Act, 1888, or as part of the

debt of a county borough for the purposes of the limitation on borrowing under sub-sections (2) and (3) of section two hundred and thirty-four of the Public Health Act, 1875. Section 33.
38 & 39 Vict.
c. 55.

(4.) Separate accounts shall be kept by the council of a county borough of their receipts and expenditure under this Act.

County and Borough Fund.—The Local Government Act, 1888 (51 & 52 Vict. c. 41), makes the following provision with regard to the county fund :—

Section 68. (1.) All receipts of the county council, whether for general or special county purposes, shall be carried to the county fund, and all payments for general or special county purposes shall be made in the first instance out of that fund.

The Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), makes the following provisions with respect to the borough fund :—

Section 139. The rents and profits of all corporate land, and the interest, dividends, and annual proceeds of all money, dues, chattels, and valuable securities belonging or payable to a municipal corporation, or to any member or officer thereof in his corporate capacity, and every fine or penalty for any offence against this Act (except where and as far as the application thereof is otherwise provided for) shall go to the borough fund.

Section 140. (1.) The borough fund shall be applicable to and charged with the several payments specified in the fifth schedule.

(2.) The payments specified in Part I. of that schedule may be made without order of the council ; those specified in Part II. may not be made without such order.

(3.) No other payment shall be made out of the borough fund except—

(A) under the authority of an Act of Parliament ; or

(B) by order of the council ; or

(C) by order of the court of quarter sessions for the borough ; or

(D) by order of a justice in pursuance of this Act ; or

(E) in cases in which the court of quarter sessions for a county, or a justice acting in and for a county in the discharge of his judicial duty, might make an order for the payment of money on the treasurer of the county.

(4.) Saving, nevertheless, in relation to the application of the borough fund, as authorised by this section, or otherwise by this Act, all rights, interests, and demands of all persons in or on the real or personal estate of the municipal corporation, by virtue of any legal proceeding, or of any mortgage, or otherwise.

Money Borrowed for the Purposes of the Act.—The following provisions are contained in the Local Government Act, 1888 (51 & 52 Vict. c. 41) :—

Section 69. (1.) The county council may, from time to time, with the consent of the Local Government Board, borrow, on the security of the county fund, and of any revenues of the council, or on either such fund or

Section 33. revenues, or any part of the revenues, such sums as may be required for the following purposes, or any of them, that is to say :

NOTE.

- (A) for consolidating the debts of the county ; and
- (B) for purchasing any land or building any building, which the council are authorised by any Act to purchase or build ; and
- (C) for any permanent work or other thing which the county council are authorised to execute or do, and the cost of which ought in the opinion of the Local Government Board to be spread over a term of years ; and
- (D) for making advances (which they are hereby authorised to make) to any persons or bodies of persons, corporate or unincorporate, in aid of the emigration or colonisation of inhabitants of the county, with a guarantee for repayment of such advances from any local authority in the county, or the government of any colony ; and
- (E) for any purpose for which quarter sessions or the county council are authorised by any act to borrow ;

but neither the transfer of powers by this Act nor anything else in this Act shall confer on the county council any power to borrow without the consent above mentioned, and that consent shall dispense with the necessity of obtaining any other consent which may be required by the Acts relating to such borrowing, and the Local Government Board, before giving their consent, shall take into consideration any representation made by any ratepayer or owner of property rated into the county fund.

(2.) Provided that where the total debt of the county council, after deducting the amount of any sinking fund, exceeds, or if the proposed loan is borrowed will exceed, the amount of one-tenth of the annual rateable value of the rateable property in the county, ascertained according to the standard or basis for the county rate, the amount shall not be borrowed except in pursuance of a provisional order made by the Local Government Board and confirmed by Parliament.

(3.) A county council may also, from time to time, without any consent of the Local Government Board, during the period which was fixed for the discharge of any loan raised by them under this Act, or transferred to them by this Act, borrow on the like security such amount as may be required for the purpose of paying off the whole or any part of such loan, or if any part of such loan has been repaid otherwise than by capital money for reborrowing the amount so repaid, and for the purpose of this section, " capital money " includes any instalments, annual appropriations, and sinking fund and the proceeds of the sale of land or other property, but does not include money previously borrowed for the purpose of repaying a loan.

(4.) All money reborrowed shall be repaid within the period fixed for the discharge of the original loan, and every loan for reborrowing shall for the purpose of the ultimate discharge be deemed to form part of the same loan as the original loan, and the obligations of the council with respect to the discharge of the original loan shall not be in any way affected by means of the reborrowing.

(5.) A loan under this section shall be repaid within such period, not exceeding thirty years, (a) as the county council, with the consent of the Local Government Board, determine in each case. Section 33.

(6.) The county council shall pay off every loan either by equal yearly or half-yearly instalments of principal, or of principal and interest combined, or by means of a sinking fund set apart, invested, and applied in accordance with the Local Loans Act, 1875, and the Acts amending the same.

(7.) Where a loan is raised for any special county purpose, the council shall take care that the sums payable in respect of the loan are charged to the special account to which the expenditure for that purpose is chargeable.

(8.) Where the county council are authorised to borrow any money on loan they may raise such money either as one loan or several loans, and either by stock issued under this Act, or by debentures or annuity certificates under the Local Loans Act, 1875, and the Acts amending the same, or, if special reasons exist for so borrowing by mortgage, in accordance with sections two hundred and thirty-six and two hundred and thirty-seven of the Public Health Act, 1875.

(9.) Provided that where a county council have borrowed by means of stock they shall not borrow by way of mortgage except for a period not exceeding five years.

(10.) Where the county council borrow by debentures such debentures may be for any amount not less than five pounds.

(11.) The provisions of this section which authorise advances in aid of the emigration or colonisation of inhabitants of the county, and borrowing for those advances, except the provisions respecting the total debt, shall extend to the councils of boroughs mentioned in the Third Schedule to this Act.

(12.) Nothing in this section shall be taken to empower the Cheshire county council to borrow on the security of any revenue estimated to accrue from the surplus funds of the River Weaver navigation.

The Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 234, provides as follows :—

234. The exercise of the powers of borrowing conferred by this Act shall be subject to the following regulations, namely :—

(1.) Money shall not be borrowed except for permanent works (including under this expression any works of which the cost ought in the opinion of the Local Government Board to be spread over a term of years).

(2.) The sum borrowed shall not at any time exceed, with the balances of all the outstanding loans contracted by the local authority under the sanitary Acts and this Act, in the whole the assessable value for two years of the premises assessable within the district in respect of which such money may be borrowed.

(3.) Where the sum proposed to be borrowed with such balances (if any) would exceed the assessable value for one year of such premises, the Local Government Board shall not give their sanction to such loan until one of their inspectors has held a local inquiry and reported to the said Board.

(a) See section 33 (2) of the Mental Deficiency Act, *ante*, p. 792, which makes period sixty years for the purposes of that Act.

Section 34. **34.** The Lancashire Asylums Board shall, as respects the county of Lancaster and the county boroughs represented on the said Board, be the local authority for the purposes of this Act for that county and those county boroughs, and the provisions of the Lancashire County (Lunatic Asylums and other Powers) Act, 1891, as to expenses, borrowing, accounts, and audit shall apply accordingly in substitution for the provisions as to the like matters contained in this Act.

Special provisions as to Lancashire.

54 & 55 Vict. c. 20.

As to the special provisions applying to Lancashire, see the Lancashire County (Lunatic Asylums and other Powers) Acts, 1891 and 1902, *ante*, p. 493, *seq.*

PART III.

CERTIFICATION AND PROVISION OF INSTITUTIONS, &c.

State institutions.

35. (1.) The Board, subject to the approval of the Secretary of State, may establish and maintain institutions for defectives of dangerous or violent propensities (in this Act referred to as State institutions), and for that purpose the Secretary of State may cause to be transferred to the Board the whole or any part of any building vested in the Prison Commissioners or otherwise under the control of the Secretary of State, or may, with the approval of the Treasury, authorise the Board under this Act either to acquire any land or erect or acquire any building.

(2.) For the purposes of this Act, the Board shall be deemed to be the managers of State institutions.

Certification of institutions.

36. The Board may, upon the application of the managers of premises intended for the reception, control, care, and treatment of defectives, if satisfied of the fitness of the premises and of the persons proposing to maintain them for such purposes, grant a certificate to the managers to receive defectives therein, and a certificate so granted shall continue in force for the period for which it is granted or until revoked or resigned under this Act, and an institution so certified is in this Act referred to as a certified institution.

Approval of premises provided by boards of guardians.

37. (1.) On the application of the local authority for any area comprising the whole or any part of a poor law union, the Board may, subject to the consent of the Local Government Board, if satisfied of the special fitness for the detention, care, and training of defectives of any buildings or other premises

provided by the board of guardians of that union, either alone Section 37.
or in conjunction with any other board of guardians, approve
the premises for the reception of defectives, and thereupon this
Act shall apply as if the premises so approved were a certified
institution and the guardians were the managers thereof, and,
so long as any such premises continue to be so approved, it
shall be lawful for the board of guardians in their capacity of
managers, subject to the approval of the Local Government
Board, to enter into agreements with any local authority as to
the reception and maintenance therein of defectives ordered to
be sent thereto under this Act, and to receive such defectives
accordingly.

(2.) Any defective ordered to be sent to any such premises
under this Act shall not be deemed to be in receipt of poor law
relief by reason that the premises are provided by a board of
guardians.

Compare the definition of "pauper," section 341 of the Lunacy Act,
1890, *ante*, p. 452.

Application of Local Authority.—"In preparing their schemes for the
administration of the Act within their area it will be open to the local
authorities to apply to the Board of Control under Section 37 of the Act,
for their approval of premises provided by boards of guardians, singly or in
combination, with a view to their being used for the reception of defectives
under agreement with the local authorities. County and county borough
councils have already been advised in a circular letter from the Home Office
that it will be useless to seek the authority of the Board of Control for the
use of ordinary workhouse accommodation for the detention of defectives,
and that applications will be favourably entertained only when the premises
in question have been specially provided and properly equipped so as to meet
satisfactorily all the requirements of the class or classes of defectives proposed
to be received therein." Circular from Local Government Board, 31st March,
1914, *post*, Appendix II. See also Home Office Circular, 22nd December,
1913, and Board of Control's Circular, 2nd April, 1914, *post*, Appendix II.

Definition of Board of Guardians.—The Interpretation Act, 1889 (52 & 53
Vict. c. 63), defines "board of guardians" and "poor law union" in the
following terms:—

16. In this Act and in every Act passed after the commencement of
this Act, the following expressions shall, unless the contrary intention
appears, have the meanings hereby respectively assigned to them,
namely:—

(1.) The expression "board of guardians" shall, as respects England
and Wales, mean a board of guardians elected under the Poor Law Amend-
ment Act, 1834, and the Acts amending the same, and shall include a board
of guardians or other body of persons performing under any local Act the
like functions to a board of guardians under the Poor Law Amendment
Act, 1834.

Section 37. (2.) The expression "poor law union" shall, as respects England and Wales, mean any parish or union of parishes of which there is a separate board of guardians.

NOTE.

Power of local authorities to establish or contribute to institutions.

38. (1.) A local authority may, subject to the approval of the Secretary of State,—

- (A) undertake or combine with any other local authority in undertaking, or contribute such sums of money upon such conditions as they may think fit towards, the establishment, building, alteration, enlargement, rebuilding, or management of institutions certified or intended to be certified under this Act or the purchase of any land required for the use of a certified institution or for the site of an institution intended to be certified under this Act; and
- (B) contract with the managers of any certified institution for the reception and maintenance in the institution of persons for whose reception and maintenance the local authority are by this Act required or authorised to make provision.

"It is obvious that in many cases economy and other advantages will arise if local authorities avail themselves of the various modes of providing accommodation which are permitted by the Act. Even if the total number of the persons for whom a Local Authority is bound to provide be small, it may be taken as certain that it will include a number of different types of defectives requiring wholly different conditions of treatment and detention." See Circular to County and County Borough Councils from the Board of Control, 2nd April, 1914, *post*, Appendix II.

(2.) Where plans of any proposed alteration, enlargement, rebuilding or building have been approved by the Secretary of State for the purposes of this section, they shall be carried out without any modifications (except such as the Secretary of State may approve), and no building or site which has been provided by a council or to which they have contributed under this section shall, without the consent of the Secretary of State, be used for any purpose other than for which it has been approved.

(3.) Land may be acquired by a local authority for the purposes of this Act in the case of the council of a county under and in accordance with the Local Government Act, 1888, and in the case of the council of a county borough as for the purposes of the Public Health Acts.

Land.—The Interpretation Act, 1889 (52 & 53 Vict. c. 63), provides as follows :—

Section 38.

NOTE.

3. In every Act passed after the year one thousand eight hundred and fifty, whether before or after the commencement of this Act, the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them, namely—

The expression “land” shall include messuages, tenements, and hereditaments, houses, and buildings of any tenure.

The Acquisition of Land by the Local Authority.—The Local Government Act, 1888 (51 & 52 Vict. c. 41), contains the following provisions :—

65. (1.) A county council may, from time to time, for the purpose of any of their powers and duties, including those which are to be executed through the standing joint committee, acquire, purchase, or take on lease, or exchange any lands or any easements or rights over or in land, whether situate within or without the county, and may acquire, hire, erect, and furnish such halls, buildings, and offices, as they may from time to time require, whether within or without their county.

(2.) For the purpose of the purchase, taking on lease, or exchange of such lands, sections one hundred and seventy-six, one hundred and seventy-seven, and one hundred and seventy-eight of the Public Health Act, 1875, shall apply as if they were re-enacted, and in terms made applicable to the county council.

(3.) Where the county council, with the consent of the Local Government Board, sell any land, the proceeds of such sale shall be applied in such manner as the said Board sanction towards the discharge of any loan of the council, or otherwise for any purpose for which capital may be applied by the council.

The Public Health Act, 1875 (38 & 39 Vict. c. 55), provides as follows :—

175. Any local authority may for the purposes, and subject to the provisions of this Act, purchase or take on lease, sell, or exchange any lands, whether situate within or without their district, they may also buy up any water-mill, dam, or weir which interferes with the proper drainage of or the supply of water to their district.

Any lands acquired by a local authority in pursuance of any powers in this Act contained and not required for the purpose for which they were acquired shall (unless the Local Government Board otherwise direct) be sold at the best price that can be gotten for the same, and the proceeds of such sale shall be applied towards discharge, by means of a sinking fund or otherwise, of any principal moneys which have been borrowed by such authority on the security of the fund or rate applicable by them for the general purposes of this Act, or if no such principal moneys are outstanding shall be carried to the account of such fund or rate.

176. With respect to the purchase of lands by a local authority for the purpose of this Act, the following regulations shall be observed, that is to say,—

(1.) The Lands Clauses Consolidation Acts, 1845, 1860, and 1869, shall be incorporated with this Act, except the provisions relating to access to the special Act, and except section one hundred and twenty-seven of the Lands Clauses Consolidation Act, 1845.

Section 38. (2.) The local authority, before putting in force any of the powers of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement, shall

NOTE.

Publish once at the least in each of three consecutive weeks in the month of November, in some local newspaper circulated in their district, an advertisement describing shortly the nature of the undertaking in respect of which the lands are proposed to be taken, naming a place where a plan of the proposed undertaking may be seen at all reasonable hours, and stating the quantity of lands that they require ; and shall further

Serve a notice in the month of December on every owner or reputed owner, lessee, or reputed lessee, and occupier of such lands, defining in each case the particular lands intended to be taken, and requiring an answer stating whether the person so served assents, dissents, or is neuter in respect of taking such lands.

(3.) On compliance with the provisions of this section with respect to advertisements and notices, the local authority may, if they think fit, present a petition under their seal to the Local Government Board. The petition shall state the lands intended to be taken, and the purposes for which they are required, and the names of the owners, lessees, and occupiers of lands who have assented, dissented, or are neuter in respect of the taking such lands, or who have returned no answer to the notice, it shall pray that the local authority may, with reference to such lands, be allowed to put in force the powers of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement, and such prayer shall be supported by such evidence as the Local Government Board requires.

(4.) On the receipt of such petition and on due proof of the proper advertisements having been published and notices served the Local Government Board shall take such petition into consideration, and may either dismiss the same, or direct a local inquiry as to the propriety of assenting to the prayer of such petition ; but until such an inquiry has been made no provisional order shall be made affecting any lands without the consent of the owners, lessees, and occupiers thereof.

(5.) After the completion of such inquiry the Local Government Board may, by provisional order, empower the local authority to put in force, with reference to the lands referred to in such order, the powers of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement or any of them, and either absolutely or with such conditions and modifications as the Board may think fit, and it shall be the duty of the local authority to serve a copy of any order so made in the manner and on the person in which and on whom notices in respect of such lands are required to be served.

Provided that the notices by this section required to be given in the months of November and December may be given in the months of September and October or of October and November, but in either of such last-mentioned cases an inquiry preliminary to the provisional order to which such notices refer shall not be held until the expiration of one month from the last day of the second of the two months in which the notices are given ; and any notices or orders by this section required to be

served on a number of persons having any right in, over, or on lands in Section 38. common may be served on any three or more of such persons on behalf of all such persons.

NOTE.

177. Any local authority may, with the consent of the Local Government Board, let for any term any lands which they may possess, as and when they can conveniently spare the same.

178. The Chancellor and Council of the Duchy of Lancaster for the time being may, if they think fit (but subject and without prejudice to the rights of any lessee, tenant or occupier) from time to time contract with any local authority for the sale of, and may (subject as aforesaid) absolutely sell and dispose of, for such sum as to the said chancellor and council may appear sufficient consideration, the whole or any part of any lands belonging to her Majesty, her heirs, or successors in right to the said duchy, or any right, interest, or easement, in, through, over, or on any such lands which for the purposes of this Act such local authority from time to time deem it expedient to purchase, and on payment of the purchase money, as provided by the Duchy of Lancaster Lands Act, 1855, the said chancellor and council may grant and assure to the said authority, under the seal of the said duchy, in the name of her Majesty, her heirs, or successors the subject of such contract or sale, and such money shall be dealt with as if such subject had been sold under the authority of the Duchy of Lancaster Lands Act, 1855.

39. Where any premises vested in the Prison Commissioners, any board of guardians, or other public authority are no longer required for the purposes for which they were provided, and the Board of Control are satisfied as to the fitness of the premises for the reception of defectives, the Prison Commissioners, the board of guardians, or other authority may, with the consent of the Secretary of State, the Local Government Board, or other Department of the Government concerned, lease or grant the use of the premises to any local authority under this Act, or other person, for the purpose of their being used as a certified institution.

Transfer of premises for use as institutions.

40. (1.) The persons appointed under the Lunacy Acts, 1890—1911, to act as visitors of licensed houses, with the addition of one or more women appointed in like manner as such visitors, shall be the visitors of institutions for defectives under this Act, and the number of persons appointed to be visitors of licensed houses under those Acts shall be such as may be considered necessary to perform the duties of visitors of institutions for defectives under this Act as well as the duties of visitors of licensed houses under those Acts, and their duties under this Act shall be taken into consideration in determining the remuneration, if any, of the visitors and clerks to visitors.

Visitors of institutions.

(2.) In all places where no persons are so appointed to act

Section 40. as visitors of licensed houses a sufficient number of persons, possessing the like qualifications as such visitors, with the addition of one or more women, shall be appointed in like manner as such visitors to act as visitors of institutions for defectives, and a clerk to such visitors shall be appointed in like manner as in the case of the clerk to the visitors appointed under the Lunacy Acts, 1890—1911, and the expenses of visitors so appointed, including the remuneration, if any, of any visitors and clerks to visitors, shall be defrayed in like manner as the expenses of visitors under the Lunacy Acts, 1890—1911.

(3.) The visitors of institutions for defectives shall perform such functions as are assigned to them by this Act and such further functions in connection with the visitation of institutions and of the patients therein, and of defectives under guardianship, and with respect to the discharge of such defectives and their after care and otherwise, as may be assigned to them by regulations of the Secretary of State under this Act.

Visitors to Licensed Houses.—As to the provisions of the Lunacy Act, 1890, see sections 177—182 of that Act, *ante*, pp. 314—318.

See also Order in Council quoted in Appendix II. as to the powers formerly exercised by two Commissioners, which may now be exercised by one, provided that the duties are not such that the Act provides should be carried out by two Commissioners, one of which shall be a legal Commissioner, and the other a medical Commissioner.

Regulations
as to manage-
ment of insti-
tutions for
defectives.

41. (1.) The Secretary of State may make regulations as to—

- (A) the granting, transfer, renewal, revocation, and resignation of certificates for institutions ;
- (B) the management of institutions ;
- (C) the classification and treatment of patients in institutions, their instruction, and their employment in suitable occupations, and the reports to be made as to their mental condition and otherwise in respect of them ;
- (D) the inspection of institutions and the visitation of patients therein by the Board and inspectors and other persons ;
- (E) the notification to the Board of the admission of a patient to an institution ;
- (F) the transfer of patients from one certified institution to another, and from a State institution to a certified

institution, and, in cases appropriate to State institutions, from a certified institution to a State institution ;

Section 41.

- (G) the discharge of patients from institutions ;
- (H) the absence of patients from institutions under licence or temporarily without licence ;
- (I) the notifications to be made by the managers in the event of the outbreak of an infectious disease in an institution and in the event of the death of a patient in an institution or absent therefrom under licence ;
- (J) the conveyance of persons to and from institutions ;
- (K) the burial of persons dying in institutions ;
- (L) the powers and duties of persons appointed guardians of defectives under this Act ; the reports to be made by such guardians as to defectives under their guardianship ; the visitation of such defectives ; and their discharge from guardianship ;
- (M) the granting, renewal, and revocation of approval of homes for defectives ;
- (N) the holding of inquiries and any other matter necessary or proper for the carrying into effect of the provisions of this Act with respect to institutions, and the inmates thereof, and to guardianship ;
- (O) the application, as respects any matters to be dealt with by regulations, of any of the provisions of the Lunacy Acts, 1890—1911, dealing with the like matters, subject to the necessary modifications and adaptations ;
- (P) the study of improved methods of treating mental deficiency.

(2.) The regulations made under this section shall make applicable as respects institutions and the patients therein the provisions of sections forty, forty-one, forty-two, forty-seven, and fifty-three of the Lunacy Act, 1890 :

Provided that nothing in this sub-section shall be construed as restricting any power of the Secretary of State under sub-section (1) of this section.

Certificates for Institutions.—See the Home Secretary's Regulations, 2nd April, 1914, sections 44—63, and Forms C1—C10 in Schedule, *post*, Appendix II.

Management of Institutions, &c.—The Home Secretary's Regulations,

Section 41. 2nd April, 1914, which deal with management generally, are sections 80—173 and 184—193, *post*, Appendix II.

NOTE.

The Classification and Treatment of Defectives.—The Home Secretary's Regulations, dealing with classification and treatment, are sections 80—87, *post*, Appendix II.

The Inspection of Institutions, &c.—Sections 180—183 of the Home Secretary's Regulations, 2nd April, 1914, deal with the inspection of certified institutions, sections 194—200 deal with the inspection of approved homes, and sections 174—179 deal with the inspection of certified houses, *post*, Appendix II.

Sections 40, 41, 42, 47 and 53 of the Lunacy Act, 1890.—These sections deal respectively with mechanical restraint, correspondence, the right of interviews of patients with the Commissioners or visitors, and the right to have letters forwarded, regulations as to visits by friends, and the employment of males in care of females. See *ante*, under the various sections of the Lunacy Act, 1890, and notes, pp. 202 *seq.*, 208, 213.

Apprehension
of defectives
escaping.

42. If a patient in an institution or absent from an institution under licence or without a licence escapes, he may be apprehended without warrant by any constable or by the managers of the institution or any person authorised by them in writing, and brought back to the institution.

Compare the provisions of the Lunacy Act, 1890, s. 85, *ante*, p. 237, under which a person who has escaped and remains at large for 14 days must have a fresh reception order made before he can be readmitted into an institution as a person of unsound mind. It will be observed that the section in this Act imposes no time limit for recapture.

Ascertain-
ment of local
authority
responsible
for providing
accommoda-
tion, &c.

43. (1.) Where a person is ordered to be sent to a certified institution or to be placed under guardianship, the local authority responsible for providing accommodation for that person or making provision for his guardianship, as the case may be, shall be the council of the county or county borough in which he resided (to be specified in the order), and the duties of that council shall include, in the case of a person ordered to be sent to a certified institution, the duty to provide for his conveyance to, and reception and maintenance in, such an institution.

(2.) An order that a person be sent to an institution or placed under guardianship shall not, where a council will by virtue of this Act become responsible for providing for the conveyance, reception and maintenance of that person in an institution, or making provision for his guardianship, as the case may be, be made unless that council have been given an opportunity of being heard, or, if the order is made by the Secretary of State of making representations to him, and, if

room is available in an institution, suitable for the defective, **Section 43.** provided by the responsible authority, an order shall not, without the consent of that authority, be made for sending the defective to any other institution.

(3.) The council responsible under this section for the maintenance of a person in a certified institution shall continue responsible for his maintenance in the event of his transfer to another such institution, and shall be responsible for his conveyance on his transfer from the one institution to the other ; and the council responsible under this section for making provision for the guardianship of a person placed under guardianship shall, in the event of his being sent to a certified institution under an order varying the original order, be responsible for his conveyance to, and his reception and maintenance in, such an institution.

44. (1.) Where the order is made in respect of a person found guilty of an offence, that person shall for the purposes of the provisions of the last preceding section be presumed to have resided in the place where the offence was or was alleged to have been committed, unless it is proved that he resided in some other place : Determination of residence.

Provided that, where the order is made by a court of assize or quarter sessions, the court shall remit to a court of summary jurisdiction for the place where the person is committed for trial the determination of his place of residence.

(2.) Where the order is made by the Secretary of State then—

(A) if the order is in respect of a person in a prison, inebriate reformatory, criminal lunatic asylum, or place of detention, that person shall, for the purposes of the provisions of the last foregoing section, be presumed to have resided in the place where the offence was or was alleged to have been committed, unless it is proved that he resided in some other place ;

(B) if the order is in respect of a person in a reformatory or industrial school, that person shall, for the purposes of the provisions of the last foregoing section, be deemed to have resided in the place (if any) determined to have been his place of residence for the purposes of his committal to the reformatory or industrial school.

(3.) Where a council are aggrieved by a decision as to the

Section 44. place of residence of any person, they may, within three months after the making of the order, apply to a petty sessional court acting in and for such place as may be prescribed, and that court, on proof to its satisfaction that the person in respect of whom the order was made was resident in the area of some other council, and after giving such other council an opportunity of being heard, may transfer the liability to that other council, and may order that other council to repay the first-mentioned council any expenses incurred by them in respect of the person in question, and an appeal shall lie from the decision of the court to a court of quarter sessions; but nothing in this provision shall affect the liability of the first-mentioned council under the original order until an order made transferring the liability to another council comes into force.

“ It is not anticipated that difficulty will often arise in ascertaining which council is responsible. It is understood that few cases of dispute have arisen under the analogous provisions of section 74 of the Children Act.” Circular of Home Office, 22nd December, 1913, *post*, Appendix II.

(4.) In the case of doubt as to where a person resides the expression “ place of residence ” in this section shall be construed as the county or county borough (as the case may be) in which the person would, if he were a pauper, be deemed to have acquired a settlement within the meaning of the law relating to the relief of the poor.

42 & 43 Vict.
c. 49. (5.) The power of the Lord Chancellor to make rules under section twenty-nine of the Summary Jurisdiction Act, 1879, shall extend to making rules for prescribing anything which under this section is to be prescribed, and generally to the procedure of courts of summary jurisdiction under this section.

See Provisional Rules made by the Lord Chancellor, 20th March, 1914, *post*, Appendix II.

Power of Lord Chancellor to make Rules.—The Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), provides as follows:—

Section 29. (1.) The Lord High Chancellor of Great Britain, may from time to time make, and when made, rescind, alter and add to, rules in relation to the following matters or any of them; that is to say,—

- (A) The giving security under this Act; and
- (B) The forms to be used under the Summary Jurisdiction Acts, or any of them, including the forms of any recognisance mentioned in this Act; and
- (C) The costs and charges payable under distress warrants issued by a court of summary jurisdiction; and

- (D) Adapting to the provisions of this Act, and of the Summary Jurisdiction Act, 1848, the procedure before courts of summary jurisdiction under any Act passed before the Summary Jurisdiction Act, 1848; and
- (E) Regulating the form of the account to be rendered by clerks of courts of summary jurisdiction of fines, fees, and other sums received by them, and providing for the discontinuance of any existing account rendered unnecessary by the aforesaid account; and
- (F) Any other matter in relation to which rules are authorised or required to be made under or for the purpose of carrying into effect this Act.

(2.) The Lord Chancellor may, in the exercise of the power given him by this section, annul, alter or add to any forms contained in the Summary Jurisdiction Act, 1848, or any forms relating to summary proceedings contained in any other Act.

(3.) Any rule purporting to be made in pursuance of this section shall be laid before both Houses of Parliament as soon as may be after it is made, if Parliament be then sitting, or if not then sitting, within one month after the commencement of the next session of Parliament, and shall be judicially noticed.

45. (1.) The Asylums Officers' Superannuation Act, 1909, shall apply to the officers of certified institutions provided by local authorities, with the substitution of references to the managers of such institutions for references to visiting committees of asylums, and with such other adaptations and modifications as the Secretary of State may by order prescribe, and in particular such modifications may include the alteration of—

- (A) the periods of service entitling to superannuation allowances;
- (B) the scale of superannuation allowances and gratuities;
- (C) the scale of contributions:

Provided that nothing in this section shall authorise the Secretary of State to prescribe by order any modifications of the Asylums Officers' Superannuation Act, 1909, which would have the effect of increasing the amount of any superannuation allowance which could be granted to, or of reducing the amount of any contribution made by, any officer or servant under that Act.

(2.) Before an order is made by the Secretary of State under this section, the draft thereof shall be laid before each House of Parliament for a period of not less than thirty days during the session of Parliament, and, if either of those Houses, before

Section 45. the expiration of those thirty days, presents an address to His Majesty against the draft or any part thereof, no further proceedings shall be taken thereunder, without prejudice to the making of any new draft order.

For the provisions of the Asylums Officers' Superannuation Act, see Appendix I.

Scheme for the payment of superannuation allowances or gratuities to officers.

46. (1.) The managers or owner of any certified institution not provided by a local authority or of a certified house or an approved home, may establish, or join with the managers or owners of one or more such institutions, houses, or homes in establishing, a scheme for the payment of superannuation allowances and gratuities to officers thereof who become incapable of discharging the duties of their office by reason of permanent infirmity of mind or body, or old age, upon their resigning or otherwise ceasing to hold their offices.

(2.) The expenses incurred under any such scheme shall be treated as part of the expenses of management.

Contributions by the Treasury.

47. There shall be paid out of money provided by Parliament such sums on such conditions as the Secretary of State may, with the approval of the Treasury, recommend towards the expenses of any persons detained in certified institutions or placed under guardianship, including the expenses of removal in the case of any such person ordered to be transferred from one such institution to another and towards other expenses incurred by local authorities under this Act.

Provided that, unless Parliament otherwise determines, the aggregate amount so paid in any financial year shall not exceed one hundred and fifty thousand pounds, but for the purpose of this limitation there shall be excluded all sums paid towards the expenses of persons sent to such institutions or placed under guardianship—

(A) by order of the Secretary of State ;

(B) by order of a court or judicial authority after having been found guilty of an offence, or having been ordered or found liable to be ordered to be sent to an industrial school.

Contribution by the Treasury.—See section 25 (1), (H), *ante*, p. 783, as to grants out of money provided by Parliament. See also section 49 (2), (A), *post*, p. 809.

Treasury contributions

48. Where a society has undertaken the duty of assisting or supervising defectives whilst not in institutions under this

Act, there may be paid to the society out of money provided by Parliament towards the expenses of the society in connexion with such persons such sums and on such conditions as the Secretary of State, with the approval of the Treasury, may recommend.

Section 48.

towards
expenses of
societies
assisting
defectives.

49. (1.) A person desirous of receiving defectives at his house for private profit may apply to the Board for a certificate, and the Board, if satisfied of the fitness of the premises and of the applicant, may, if they think fit, on payment by the applicant of the prescribed fee, grant a certificate to the applicant subject to such conditions as they may impose, and a certificate so granted shall continue in force for the period for which it is granted or until revoked or resigned under this Act, and a house in respect of which such a certificate is in force is in this Act referred to as a certified house, and the person to whom such a certificate is granted is referred to as the owner of such house.

Provisions as
to certified
houses.

(2.) Any defective who may be ordered to be sent to, or may be placed in, an institution under this Act may be ordered to be sent to, or may be placed in, a certified house, and all the provisions of this Act relating to institutions and the patients therein shall apply to certified houses and the patients therein.

Provided that—

- (A) no part of the money provided by Parliament under this Act shall be applied towards the expenses of defectives in certified houses ; and
- (B) a local authority shall have no power or duty to contribute towards the expenses of defectives ordered to be sent to, or placed in, a certified house or to provide for their conveyance to, and reception and maintenance in, a certified house ; and
- (C) the provisions of this Act with respect to the recovery from defectives or the persons liable to maintain them of contributions towards the expenses of their maintenance shall not apply in the case of defectives in, or ordered to be sent to, certified houses ; and
- (D) a special report under section eleven of this Act as to the mental and bodily condition of a defective detained in a certified house shall not be made by

Section 49

the medical officer of the house or by any medical practitioner directly or indirectly interested in the house.

It will be observed that whereas the Lunacy Act of 1890 disposed of the granting of new licences for the reception of persons of unsound mind into licensed houses, the present Act provides for the licensing of houses for the reception of defectives.

The prescribed Fee.—The Home Secretary's Regulations, 2nd April, 1914, section 62, provides as follows :—

62. (1.) For any certificate, or renewed certificate, for a certified house there shall be paid to the secretary of the Board, a fee of £5, and in addition the sum of 10s. for every patient beyond the number of ten.

(2.) If the period for which the certificate is granted is less than thirteen months, the Board may reduce the payment.

(3.) The payment for a certificate for a new certified house granted upon the transfer of patients from a certified house, shall be not less than £1 10s.

(4.) No certificate shall be delivered until the sum payable for the same has been paid.

Provisions as
to approved
homes.

50. (1.) The managers of any premises wherein defectives are received and supported wholly or partly by voluntary contributions or by applying the excess of payments of some patients for or towards the support of other patients, and any person desirous of receiving defectives in his house for private profit, may apply to the Board to approve the premises or house, and the Board, if satisfied of the fitness of the same and of the applicant, may, if they think fit, on payment by the applicant of such fee (if any) as may be prescribed, grant their approval subject to such conditions as to inspection, the making of reports, and otherwise as they may think fit, and any such approval shall continue valid for the period for which it is granted or until withdrawn under this Act, and any premises or house so approved are in this Act referred to as in an approved home.

(2.) It shall not be lawful to receive or detain in an approved home any person ordered to be sent to an institution for defectives under an order of the judicial authority, or a court, or a Secretary of State under this Act.

See note to section 49, *supra*.

PART IV.

GENERAL.

Offences, Legal Proceedings, &c.

51. (1.) It shall not be lawful for a person without the consent of the Board to undertake the care and control of more than one person who is a defective, or who is placed under his care as being a defective elsewhere than in an institution, a certified house, or an approved home, and, if any person contravenes this provision, he shall be guilty of a misdemeanor.

Section 51.
Offences with respect to the reception and detention of defectives.

(2.) Where a person undertakes the care and control of any person who is a defective or is placed under his care as being a defective elsewhere than in an institution, a certified house, or an approved home, he shall, within forty-eight hours after the reception of such person, give notice thereof in the prescribed form to the local authority and to the Board, and, if he fails to do so, he shall be guilty of an offence under this Act.

(3.) If any manager of any institution for defectives, or the owner of a certified house, or the guardian of a defective, detains a patient or exercises any of the powers conferred upon him by this Act after he has knowledge that those powers have expired, he shall be guilty of a misdemeanor.

(4.) Nothing in this section shall apply to or affect any person who under the Lunacy Acts, 1890—1911, or the Elementary Education (Defective and Epileptic Children) Act, 1899, as amended by any subsequent enactment, receives or detains any person in accordance with those Acts, notwithstanding that the person so received and detained is a defective within the meaning of this Act.

Compare sections 222 and 223 of the Lunacy Act, 1890, *ante*, p. 344.

52. If any person, having been warned by a person appointed to be guardian of a defective under this Act, or by a person under whose charge a patient absent from an institution or from a certified house has been placed, not to supply intoxicants to or for the use of the person under his guardianship or charge, knowingly supplies any intoxicants to or for the use of that person, he shall be guilty of an offence under this Act :

Offence of supplying intoxicants contrary to warning.

Provided that a person shall not be guilty of the offence of

Section 52. supplying intoxicants in contravention of the warning if the person giving the warning refuses, when required so to do, to produce the authority under which he acts.

As to the construction of "knowingly supplies," see *Sherras v. de Rutzen*, [1895] 1 Q. B. 918; 59 J. P. 440; 64 L. J. M. C. 218; 72 L. T. 839; 43 W. R. 526.

Offences in
relation to
institutions,
&c.

53. If any person secretes a patient in any institution or certified house or approved home or induces or knowingly assists a patient in an institution or a certified house, or a person allowed out from such an institution or house either on licence or without a licence, or a person in a place of safety or under guardianship under this Act, to escape or to break any conditions of his guardianship or licence, he shall be guilty of an offence under this Act.

Compare section 323 of the Lunacy Act, 1890, *ante*, p. 434. See also section 243 of the Home Secretary's Regulations, 2nd April, 1914, *post*, Appendix II.

Obstruction.

54. (1.) Any person who obstructs any Commissioner or inspector or visitor or any officer or other person appointed or employed by a local authority in the exercise of the powers conferred by or under this Act, shall be guilty of a misdemeanor.

(2.) Any person who wilfully obstructs any other person authorised under this Act by an order in writing under the hand of the Secretary of State to visit and examine any person alleged to be a defective, or to inspect or inquire into the state of any institution, certified house, approved home, prison, or place wherein any person represented to be a defective is confined or alleged to be confined, in the execution of such order, and any person who wilfully obstructs any person authorised under this Act by any order of the Board to make any visit and examination or inquiry in the execution of such order, shall be guilty of an offence under this Act.

Compare section 321 of the Lunacy Act, 1890, *ante*, p. 431.

See *Reg. v. Jones* (1893), referred to in Commissioners' 48th Report, p. 104; and *Urry's Case* (1886), 40th Report, p. 74.

Wilfully.—The definition of "wilfully" is contained in *Reg. v. Senior*, [1899] 1 Q. B. 283; 63 J. P. 8; 68 L. J. Q. B. 175; 79 L. T. 562; 47 W. R. 367; 15 T. L. R. 102. It means that the act is done deliberately and intentionally, not by accident or inadvertently, but so that the mind of the person who does the act goes with it.

Ill-treatment.

55. If any manager, officer, nurse, attendant, servant, or other person employed in an institution or certified house, or

approved home, or any person having charge of a defective, **Section 55.** whether by reason of any contract, or of any tie of relationship, or marriage, or otherwise, ill-treats or wilfully neglects the defective, he shall be guilty of a misdemeanor.

Ill-treatment.—The Children Act, 1908 (8 Edw. 7, c. 67), Part II., s. 38 (2), provides as follows:—

For the purposes of this part of this Act, any person who is the parent or legal guardian of a child or young person or who is legally liable to maintain a child or young person shall be presumed to have the custody of the child or young person, and as between father and mother the father shall not be deemed to have ceased to have the custody of the child or young person by reason only that he has deserted, or otherwise does not reside with, the mother and child or young person; and

Any person to whose charge a child or young person is committed by any person who has the custody of the child or young person shall be presumed to have charge of the child or young person; and

Any other person having actual possession or control of a child or young person shall be presumed to have the care of the child or young person.

Compare section 322 of the Lunacy Act, 1890, *ante*, p. 432.

56. (1.) Any person—

- (A) who unlawfully and carnally knows, or attempts to have unlawful carnal knowledge of, any woman or girl under care or treatment in an institution or certified house or approved home, or whilst placed out on licence therefrom or under guardianship under this Act; or
- (B) who procures, or attempts to procure, any woman or girl who is a defective to have unlawful carnal connection, whether within or without the King's dominions, with any person or persons; or
- (C) who causes or encourages the prostitution, whether within or without the King's dominions, of any woman or girl who is a defective; or
- (D) who, being the owner and occupier of any premises, or having or acting or assisting in the management or control thereof, induces or knowingly suffers any woman or girl who is a defective to resort to or be in or upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally; or
- (E) who, with intent that any woman or girl who is a

Protection of
defectives
from acts of
sexual
immorality,
procuration,
&c.

Section 56.

defective should be unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally, takes or causes to be taken such woman or girl out of the possession and against the will of her parent or any other person having the lawful care or charge of her ;

shall be guilty of a misdemeanor and shall be liable upon conviction on indictment to be imprisoned, with or without hard labour, for any term not exceeding two years unless he proves that he did not know, and had no reason to suspect, that the woman or girl was a defective.

48 & 49 Vict.
c. 69.

(2.) Section ten of the Criminal Law Amendment Act, 1885, shall apply in the case of a woman or girl who is a defective in the same manner as it applies in the case of a girl who is under the age of sixteen years.

43 & 44 Vict.
c. 45.

(3.) Without prejudice and in addition to the provisions of the Criminal Law Amendment Act, 1880, no consent shall be any defence in any proceedings for an indecent assault upon any defective, if the accused knew or had reason to suspect that the person in respect of whom the offence was committed was a defective.

(4.) No indictment under this section shall be tried at quarter sessions.

(5.) If on the trial of an indictment for rape the jury are satisfied that the accused is guilty of an offence under paragraph (A) of sub-section (1) of this section, but are not satisfied that he is guilty of rape, the jury may acquit him of rape and find him guilty of such offence as aforesaid, and in that event he shall be liable to be punished as if he had been convicted on an indictment for such offence as aforesaid.

61 & 62 Vict.
c. 36.

(6.) Section four of the Criminal Evidence Act, 1898, shall have effect as if this section of this Act were included in the Schedule to that Act.

The Criminal Law Amendment Act, 1885.—Section 10 of this Act makes the following provisions :—

If it appears to any justice of the peace, on information made before him on oath by any parent, relative, or guardian of any woman or girl, or any other person who, in the opinion of the justice, is *bonâ fide* acting in the interest of any woman or girl, that there is reasonable cause to suspect that such woman or girl is unlawfully detained for immoral purposes by any person in any place within the jurisdiction of such justice, such justice

may issue a warrant authorising any person named therein to search for, and, when found, to take to and detain in a place of safety such woman or girl until she can be brought before a justice of the peace, and the justice of the peace before whom such woman or girl is brought may cause her to be delivered up to her parents or guardians, or otherwise dealt with as circumstances may permit and require.

Section 56.

NOTE.

The justice of the peace issuing such warrant may, by the same or any other warrant, cause any person accused of so unlawfully detaining such woman or girl to be apprehended and brought before a justice, and proceedings to be taken for punishing such person according to law.

A woman or girl shall be deemed to be unlawfully detained for immoral purposes if she is so detained for the purpose of being unlawfully and carnally known by any man, whether any particular man or generally, and

- (A) Either is under the age of sixteen years ; or
- (B) If of over the age of sixteen years, and under eighteen years, is so detained against her will, or against the will of her father or mother or of any other person having the lawful care or charge of her ; or
- (C) If of or above the age of eighteen years is so detained against her will.

Any person authorised by warrant under this section to search for any woman or girl so detained as aforesaid may enter (if need be by force) any house, building, or other place specified in such warrant, and may remove such woman or girl therefrom.

Provided always, that every warrant issued under this section shall be addressed to and executed by some superintendent, inspector, or other officer of police, who shall be accompanied by the parent, relative, or guardian or other person making the information, if such person so desire, unless the justice shall otherwise direct.

Section 5 (2) of the same Act provides :—" Any person who unlawfully and carnally knows or attempts to have unlawful carnal knowledge of any female idiot or imbecile woman or girl under circumstances which do not amount to rape, but which prove that the offender knew at the time of the commission of the offence that the woman or girl was an idiot or imbecile, shall be guilty of a misdemeanor, and being convicted thereof shall be liable at the discretion of the court to be imprisoned for any term not exceeding two years, with or without hard labour."

The Criminal Evidence Act, 1898 (61 & 62 Vict. c. 36).—Section 4 of this Act contains the following provisions :—

4. (1.) The wife or husband of a person charged with an offence under any enactment mentioned in the schedule to this Act may be called as a witness either for the prosecution or defence and without the consent of the person charged.

(2.) Nothing in this Act shall affect a case where the wife or husband of a person charged with an offence may at common law be called as a witness without the consent of that person.

Compare section 324 of the Lunacy Act, 1890, *ante*, p. 434, which only applies to persons employed in the place where the lunatic is, or to the

Section 56. person in whose charge the lunatic is. It does not even apply to a workman sent in by an outside employer, see *Reg. v. Tunnicliffe*, 61st Report of the Commissioners in Lunacy, p. 69, although such a person would come within the scope of section 5 (2) of the Criminal Law Amendment Act, 1885, *supra* : which, however, requires that it shall be proved that the alleged offender knew the person to be an idiot or imbecile.

NOTE.

The present Act provides for such a contingency by the insertion in the above section, of the words "*any person*" "who unlawfully and carnally knows, &c.," and the onus of proof is thrown upon the alleged offender to show that he did not know or had no reason to suspect that the person in respect of whom the offence was committed was a defective.

It will be noted that sub-section (1), (*a*) refers to defectives under care and treatment, or out on licence, whereas sub-section (1), (*b*), (*c*), (*d*), and (*e*) is apparently not limited in this respect.

False entries. **57.** Any person who in any book, statement, or return knowingly makes any false entry as to any matter as to which he is by this Act or any rules made under this Act required to make an entry shall be guilty of a misdemeanor.

See Lunacy Act, 1890, s. 318, *ante*, p. 430.

Punishment of person making untrue statement for purpose of obtaining certificate or approval. **58.** If any person, for the purpose of obtaining any certificate or approval under this Act, or the renewal of any such certificate or approval, wilfully supplies to the Board any untrue or incorrect information, plan, description, or notice, he shall be guilty of a misdemeanor.

Compare Lunacy Act, 1890, s. 214, *ante*, p. 341.

Penalty for breach of regulations. **59.** If any person is guilty of a breach of any regulation made under this Act, he shall be liable on summary conviction to a penalty not exceeding such as may be prescribed as respects such a breach by the regulations, but the maximum penalty imposed by the regulations in respect of any breach shall not exceed imprisonment, with or without hard labour, for a term of three months or a fine of fifty pounds, or both.

Punishment for offences. **60.** (1.) An offence under this Act declared to be a misdemeanor shall be punishable by fine or by imprisonment for a term not exceeding two years, with or without hard labour, but may, except where otherwise expressly provided, instead of being prosecuted on indictment, be prosecuted summarily, and, if so prosecuted, shall be punishable only with imprisonment for a term not exceeding three months, with or without hard labour, or with a fine not exceeding fifty pounds, or both.

(2.) Any other offence under this Act shall be punishable

summarily with imprisonment for a term not exceeding three months with or without hard labour, or with a fine not exceeding fifty pounds, or both. Section 60.

61. Any person aggrieved by the conviction or sentence of a court of summary jurisdiction under this Act may appeal to quarter sessions. Appeals.

Compare Lunacy Act, 1890, s. 327, *ante*, p. 436.

62. The managers of an institution and the owner of a certified house and every officer of such institution or house authorised in writing by the managers or owner, for the purpose of conveying a person to or from the institution, or house, or of apprehending and bringing him back to the institution or house in case of his escape or refusal to return, shall, for that purpose and while engaged in that duty, have all the powers, protections, and privileges of a constable. Protection of officers for the purposes of arrest.

63. Section three hundred and thirty of the Lunacy Act, 1890, which relates to the protection of persons putting that Act in force, and section three hundred and thirty-two of the same Act, which relates to the powers of Commissioners and visitors to summon witnesses, shall have effect as if they were herein enacted and in terms made applicable to this Act. Application of sections 330 and 332 of Lunacy Act, 1890.

For the above sections, see the Lunacy Act, 1890, *ante*, pp. 437, 440.

Supplemental.

64. The provisions of section fifty and Part IV. of the Lunacy Act, 1890, as amended by any subsequent enactment, shall apply with respect to the management and administration of the estate of a person sent to or placed in an institution or to or in a certified house or placed under guardianship in accordance with the provisions of this Act, in like manner as they apply to the management and administration of the estate of a person lawfully detained as a lunatic but not so found by inquisition, and shall apply to the management and administration of the estate of a person with regard to whom it is proved to the satisfaction of the judge in lunacy that he is a defective within the meaning of this Act in like manner as they apply to the management and administration of the estate of a person who is through mental infirmity arising from disease or age incapable of managing his affairs. Administration of property. 53 & 54 Vict. c. 5.

Section 64. See the section referred to in the Lunacy Act of 1890, *ante*, p. 211; see also section 116 of the Lunacy Act, 1890, with special reference to sub-section (1), (c), (d) and (e), pp. 260 *et seq.*

NOTE.

Transfer to Board of powers and duties of Lunacy Commissioners.

65. (1.) All the powers and duties of the Commissioners in Lunacy under the Lunacy Acts, 1890—1911, shall as from the commencement of this Act, be transferred to the Board, and His Majesty may, by Order in Council, direct that anything which under those Acts is required or authorised to be done by, to, or in respect of, any one or more Commissioners in Lunacy or any officer of those Commissioners, shall be done by, to, or in respect of, one or more Commissioners under this Act, or the corresponding officer of the Board :

Provided that nothing in such Order in Council shall authorise anything by those Acts required to be done by two Commissioners, one a medical practitioner and the other a barrister, to be done otherwise than by two Commissioners, one a medical and the other a legal Commissioner, but the order may provide that, in the case of the temporary illness or disability of a legal or medical Commissioner, the Lord Chancellor or the Secretary of State (as the case may be) may appoint a person qualified to be a legal or medical Commissioner to act as substitute so long as the illness or disability continues.

(2.) As from the commencement of this Act, the existing staff of the Commissioners in Lunacy shall be transferred to and become members of the staff of the Board, but without prejudice to the rights of any existing members of such staff.

(3.) As from the commencement of this Act, sections one hundred and fifty to one hundred and sixty-one of the Lunacy Act, 1890, shall be repealed.

Order in Council.—Such order has now been made dated the 9th March, 1914, and cited at the beginning of Appendix II., *post*.

Power to authorise committee for care of mentally defective to act as asylums committee.

66. The Secretary of State may by order authorise the council of a county or county borough acting as a local authority under the Lunacy Acts, 1890—1911, to appoint the committee for the care of the mentally defective constituted under this Act to be the visiting committee or asylums committee for the purposes of those Acts, anything in those Acts to the contrary notwithstanding.

Repeal of Idiots Act, 1886.

67. (1.) The Idiots Act, 1886, is hereby repealed.

(2.) Any hospital, institution, or licensed house which at the

commencement of this Act is registered under the Idiots Act, Section 67. 1886, shall, without further certification, become a certified institution under this Act :

Provided that—

- (A) if any such hospital, institution, or licensed house is carried on for private profit, the hospital, institution, or house shall become a certified house instead of a certified institution ; and
- (B) if the committee of management of any such hospital, institution, or licensed house make an application to the Board for the purpose, and the Board makes an order, the whole or any part of the hospital, institution, or house to which the order relates shall become and be treated as an approved home.

(3.) Any person who before the commencement of this Act has been placed in a hospital, institution, or licensed house registered under the Idiots Act, 1886, may, after the commencement of this Act, continue to be detained therein in like manner in all respects as if he had been placed therein in pursuance of the provisions of this Act and immediately after the commencement thereof.

(4.) Nothing in this Act shall affect the right of any person who is or has been an officer or servant of a hospital, institution, or licensed house registered under the Idiots Act, 1886, to receive or to continue to receive any superannuation allowance to which he would have been entitled had this Act not been passed.

Registration of Institutions.—The sections of the Idiots Act, 1886 (49 & 50 Vict. c. 25), alluded to, provide as follows :—

Section 7. “ The managing committee or the principal officer of every hospital, institution, or licensed house, in which idiots or imbeciles are intended to be received under this Act, shall apply to the commissioners to have the hospital, institution or licensed house registered in the office of the commissioners, and the commissioners, if satisfied upon inquiry that the hospital, institution, or licensed house, is a proper one to be registered, shall issue a certificate of registration accordingly, and no idiot or imbecile shall be received into any hospital, institution, or licensed house, under this Act, until the same hospital, institution, or licensed house has been duly registered.”

Section 16. “ The committee of management of any hospital, institution, or licensed house, registered under this Act, may grant to any officer or servant who is incapacitated by confirmed illness, age, or infirmity or who has been an officer or servant in the hospital, institution or house, for not

Section 67. less than fifteen years, and is not less than fifty years old, such super annuation allowance, not exceeding two-thirds of the salary, with the value of the lodgings, rations, or other allowances enjoyed by the superannuated person, as the committee think proper.”

NOTE.

Provisions as to regulations.

68. Regulations made under this Act shall be laid before Parliament as soon as may be after they are made, and, if within thirty sitting days after they have been so laid either House of Parliament presents an address to His Majesty praying that any such regulations may be annulled, His Majesty may, by Order in Council, annul the regulations, without prejudice, however, to anything done thereunder, and the regulations made under this Act shall have effect as if enacted in this Act.

Liability to removal.

9 & 10 Vict. c. 66.

69. The time during which a defective is detained in an institution or resides in an approved home under this Act shall for all purposes be excluded in the computation of time mentioned in section one of the Poor Removal Act, 1846, as amended by any subsequent enactment.

Poor Removal Act, 1846.—See section 1 of that Act (9 & 10 Vict. c. 66) as amended by 24 & 25 Vict. c. 55, s. 1, and 28 & 29 Vict. c. 79, s. 8.

Provisions against disfranchisement.

70. The maintenance in an institution or under guardianship under this Act of any person for whose maintenance any other person is responsible shall not deprive that other person of any franchise, right, or privilege, or subject him to any disability.

Interpretation.

71. (1.) In this Act, unless the context otherwise requires,—

The expression “prescribed” means prescribed by regulations made under this Act :

The expression “parent or guardian” in relation to a defective shall include any person who undertakes or performs towards the defective the duty of a parent or guardian :

The expression “relative” means the husband or wife or a lineal ancestor or lineal descendant, or lineal descendant of an ancestor not more remote than great-grandfather or great-grandmother :

The expression “intoxicants” includes any intoxicating liquor, and any sedative, narcotic, or stimulant drug or preparation :

The expression “place of safety” means any workhouse or police station, any institution, any place of detention, and any hospital, surgery, or other suitable place,

the occupier of which is willing to receive temporarily persons who may be taken to places of safety, under this Act : Section 71.

The expression “ special school or class ” means a special school or class within the meaning of the Elementary Education (Defective and Epileptic Children) Act, 1890 :

The expressions “ institution ” and “ institution for defectives ” mean a State institution or certified institution :

The expression “ State institution ” means an institution for defectives of dangerous or violent propensities established by the Board under this Act :

The expression “ certified institution ” means an institution in respect of which a certificate has been granted under this Act to the managers to receive defectives therein, and includes, subject to the provisions of this Act, any premises provided by a board of guardians and approved under this Act :

The expression “ certified house ” means a house in which defectives are received by the owner thereof for his private profit, and in respect of which a certificate has been granted under this Act :

The expression “ approved home ” means any premises in which defectives are received and supported wholly or partly by voluntary contributions, or by applying the excess of payment of some patients for or towards the support of other patients, or a house in which defectives are received by the owner thereof for his private profit, and which has been approved by the Board under this Act :

The expression “ institution for lunatics ” has the same meaning as in the Lunacy Acts, 1890—1911 :

The expression “ board of guardians of a poor law union ” shall include the Metropolitan Asylums Board and any joint committee of a combination of unions constituted by order of the Local Government Board.

(2.) Cost on income account shall, as respects an institution provided by a local authority, include expenditure out of income by the authority by way of interest on or repayment of capital raised, or by way of rent or other similar payment, for the purposes of the provision of the institution.

Section 71. (3.) For the purposes of this Act, the Scilly Islands shall be deemed to be a county, and the council of those islands the council of a county, and any expenses incurred by that council under the provisions of this Act shall be treated as general expenses of the council.

Compare the definitions under the Lunacy Act, 1890, s. 341, *ante*, p. 447.

Place of Safety.—The expression “place of safety” means any workhouse or police station, or any hospital, surgery, or any other suitable place, the occupier of which is willing temporarily to receive an infant, child, or young person. The Children’s Act, 1908, s. 131.

School.—The expression “school” includes any institution in which defectives or epileptic children are boarded or lodged as well as taught, and any establishment for boarding or lodging children taught in a certified special class or school. (Elementary Education (Defective and Epileptic Children) Act, 1899 (62 & 63 Vict. c. 32, s. 14).)

See Circular to County and County Borough Councils from Board of Control, 2nd April, 1914, para. 6, Appendix II., *post*, as to the Government bearing a share of the cost of sites and buildings.

Short title,
extent, and
commence-
ment.

72. (1.) This Act may be cited as the Mental Deficiency Act, 1913.

(2.) This Act shall not extend to Scotland or Ireland.

(3.) This Act shall come into operation on the first day of April nineteen hundred and fourteen, except that as respects the constitution of the Board of Control, and the appointment of the secretary, officers, and servants of the Board, it shall come into operation on the first day of November nineteen hundred and thirteen.

SCHEDULE.

POWERS AND DUTIES OF THE ADMINISTRATIVE COMMITTEE.

A.D. 1913.
Section 22.

1. The supervision of the administration by local authorities of their power and duties under this Act.
2. The certification and approval of premises.
3. The provision and maintenance of State institutions.
4. The administration of grants made out of moneys provided by Parliament under this Act.
5. Such other powers and duties of the Board under this Act of an administrative nature as the Secretary of State or the Board may assign to the administrative committee.

APPENDICES.

APPENDIX I.

	PAGE
Lunacy (Vacating of Seats) Act, 1886	824
Asylums Officers' Superannuation Act, 1909	827

APPENDIX II.

Mental Deficiency.

Order in Council, 9th March, 1914	837
Home Secretary's Regulations, 1st May, 1914	839
Board of Control's Circular	846
Form of Scheme	854
Treasury Contribution	856
Local Government Board—Circular	857
Secretary of State's Regulations, with concurrence of Local Govern- ment Board	862
Secretary of State's Regulations with concurrence of Lord Chancellor	864
Lord Chancellor's Rules	866
Board of Education—Circular	869
Notification of Children—Regulations	874
Board of Education—Model Arrangements	877
Home Office—Circular, 22nd December, 1913	884
Home Office—Circular, 2nd April, 1914	891
Home Secretary's Regulations, 2nd April, 1914 : . . . <i>post</i> , at end of	
Appendix	

APPENDIX I.

THE LUNACY (VACATING OF SEATS) ACT, 1886.

49 VICT. CAP. 16.

INTRODUCTION.

Object of the Act. LORD Balfour of Burleigh, in moving that the Bill be read the second time, said it applied to any member of the House of Commons who might be afflicted with lunacy. At present there was no provision in the law by which in such a case the seat could be vacated, and the consequence was that the constituency was deprived of the services of their member in the House of Commons. The object of the Bill was to enable the House of Commons, after certain inquiries, to vacate the seat of a member who had become so afflicted. Under the Bill, the Speaker would cause inquiries to be made and reports to be presented to the House, and the House would take the course which the Speaker would recommend. He might add that the House of Commons had passed the Bill unanimously. ("Hansard's Debates," 3rd series, vol. 304, p. 1032.) The Bill passed without amendment.

Previous law. Lord COKE, in his "Fourth Institute" on p. 8, after saying that a
4 Inst. 8. grievous sickness is a good cause to remove the Speaker from his chair, says that "sickness is no cause to remove any knight, citizen, or burgess of the House of Commons; so note a diversity between the Speaker and any other of the House of Commons, and this diversity being not observed begat an error by some opinion in 38 Hen. 8, and *ib.* Parliament, Brook 7, for continuall experience is to the contrary."

Perne's case, 1566. But in 1 Comm. Journ. 75, under date Tuesday, 29th October, 1566, is an entry that a warrant was granted for a burgess for Gram-pound in Cornwall in the place of Christopher Perne reported to be a lunatic. (See also D'Ewes, 126.)

Alcock's case, 1811. In 1811 (66 Comm. Journ. 226), there is a petition of freeholders of County Wexford setting forth that one of the sitting members, Mr. Alcock, had been found a lunatic by inquisition, and that there was not the slightest hope of his recovery, and praying that the House would order a new election to fill his seat. This petition was referred

to the Committee of Privileges, who reported thereon (*ibid.* 265), Appendix I. the report being set out in the Appendix, p. 687, where the Committee say that, the fact of Mr. Alcock's lunacy being established by the production of an inquisition of a jury taken upon a Commission of Lunacy under the Great Seal of Ireland, they proceeded to inquire into the allegation of the petitioners that there was not the slightest hope that he would recover, and the Committee were of opinion that Mr. Alcock's malady, though severe and aggravated by its long continuance, could not then be considered incurable; and the Committee endeavoured in the next place to ascertain what had been the law and practice of Parliament in similar cases, and reported that in the course of this investigation, they had been unable to discover any sufficient authority for discharging a member from his service in Parliament, on account of his being afflicted with a curable malady.

—
Introduc.
—

In 1861, a debate took place in the House upon the appointment of a Select Committee to inquire into the circumstances under which Mr. Andrew Stewart, member for the Borough of Cambridge, voted in a division on the 3rd May. Mr. Stewart was at that time under treatment in Dr. Winslow's private asylum as a certified lunatic. The motion was negatived. (Hansard, 3rd series, vol. 164, pp. 1940—1968.)

AN ACT to amend the Law in regard to the Vacating of Seats in the House of Commons.

[10th May, 1886.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows:

1. This Act may for all purposes be cited as the Lunacy (Vacating of Seats) Act, 1886. Short title of Act.

2. From and after the passing of this Act, if a member of the House of Commons is received, or committed into, or detained in any asylum, house, or other place as a lunatic the following provisions shall have effect; that is to say, Procedure for vacating seat of member of House of Commons received, &c., as a lunatic into an asylum, &c.

- (i.) It shall be the duty of the court, judge, magistrate, or person under or upon whose order, and of every medical person or practitioner upon whose certificate, such member has been so received, committed, or detained, and of every superintendent, officer, proprietor, or other person having the chief charge of such asylum, house, or other place as aforesaid, as soon as may be, to certify such reception, committal, or detention to the Speaker of the House of Commons.

Default in sending Certificate.—As to default in sending such certificate, see section 320 of the Lunacy Act, 1890, *ante*.

Disobedience of Act.—As to wilful contravention or disobedience of this Act, see section 3, *post*.

Appen-
dix I.

Section 2.

- (ii.) It shall be lawful for any two members of the House of Commons to certify to the Speaker that they are credibly informed of such reception, committal, or detention.
- (iii.) The Speaker shall forthwith transmit such certificate or certificates, as the case may be, if the place of such reception, committal, or detention is in England, to the (a) Commissioners in Lunacy in England; if such place is in Scotland, to the Board of Commissioners in Lunacy in Scotland; and if such place is in Ireland, to the Inspectors of Lunatic Asylums in Ireland.
- (iv.) On receiving such certificate or certificates, as the case may be, the (a) Commissioners of Lunacy in England, the Board of Commissioners in Lunacy in Scotland, or the Inspectors of Lunatic Asylums in Ireland, or any two of them, as the case may be, shall, without delay, visit and examine the member to whom the certificate relates, and shall report to the Speaker whether he is of unsound mind.

Obstruction.—As to obstructing the Commissioners in the exercise of the powers conferred by this Act, see section 321 of the Lunacy Act, 1890, *ante*.

- (v.) If the report is to the effect that the member is of unsound mind, the Speaker shall, at the expiration of six months from the date of the said report, if the House of Commons be then sitting, and if not, then as soon as may be after the next sitting thereof, require the (a) Commissioners in Lunacy in England, or the Board of Commissioners in Lunacy in Scotland, or the Inspectors of Lunatic Asylums in Ireland, or any two of them, as the case may be, again to visit and examine the member aforesaid; and if they shall report that he is still of unsound mind, the Speaker shall forthwith lay both reports on the table of the House of Commons, and thereupon the seat of the member shall be vacant.
- (vi.) Where the seat of a member so becomes vacant, the Speaker shall issue his warrant to the Clerk of the Crown to make out a new writ for electing another member in the room of the member whose seat has so become vacant.

Penalty.

3. Every medical person or practitioner, and every superintendent, officer, proprietor, or other person having the chief charge of any asylum, house, or other place, who shall wilfully contravene or disobey the provisions of this Act shall be liable to a penalty not exceeding one hundred pounds, to be recovered with costs at the suit of any person in Her Majesty's High Court of Justice in England or Ireland, or in the Court of Session in Scotland, as the case may be.

(a) Now the Board of Control.

ASYLUMS OFFICERS' SUPERANNUATION ACT, 1909. Appendix I.

9 EDW. 7, CH. 48.

AN ACT to provide for Superannuation Allowances to Officers and Servants employed in Public Asylums for the Insane in Great Britain and Ireland ; and to make other relative provisions. A.D. 1909.

[3rd December, 1909.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

SUPERANNUATION. (a)

1.—(1) For the purposes of this Act the established officers and servants employed in asylums shall be divided into two classes. The first class shall consist of all those established officers and servants who have the care or charge of the patients in the usual course of their employment. The second class shall include all other established officers and servants.

Division of officers and servants into classes.

(2) The division of established officers and servants into classes shall be made by the visiting committee of each asylum, with the consent of the local authority, and the visiting committee shall affix in a conspicuous place in the asylum a notice with respect to such division into classes.

2. Subject to the provisions of this Act—

- (1) Any established officer or servant of the first class who has been in the service of an asylum for not less than twenty years, and is not less than fifty-five years old, or who is permanently incapacitated for asylum duties after ten years' service by injury or illness, mental or bodily, medically certified and not attributable to his own misconduct, shall be entitled, on resigning or otherwise ceasing to hold office or employment, to receive during life or incapacity a superannuation allowance, the annual amount of which shall be computed at the rate of one fiftieth of his salary

Title of officers, servants, &c., to superannuation allowances, and scale thereof.

(a) See also section 45 of the Mental Deficiency Act, 1913, *ante*, section 69 of the Mental Deficiency and Lunacy (Scotland) Act, 1913, 3 & 4 Geo. 5, c. 38, and note to section 18, *post*, p. 834.

Appen-
dix I.

Section 2.

or wages and emoluments for each completed year of service :

- (2) Any established officer or servant of the second class who has been in the service of an asylum for not less than twenty years and is not less than sixty years old, or who is permanently incapacitated for asylum duties after ten years' service by injury or illness, mental or bodily, medically certified and not attributable to his own misconduct, shall be entitled, on resigning or otherwise ceasing to hold office or employment, to receive during life a superannuation allowance the annual amount of which shall be computed at the rate of one sixtieth of his salary or wages and emoluments for each completed year of service :
- (3) The visiting committee of any asylum may, in computing the amount of superannuation allowance to any established officer or servant, take into account any peculiar professional qualifications or services or special circumstances entitling to consideration and, with the consent of the Secretary of State, add a number of years not exceeding ten to the number of years which the officer or servant has actually served in the aggregate :
- (4) Where an established officer or servant of an asylum is injured—

- (a) in the actual discharge of his duty ; and
- (b) without his own default ; and
- (c) by some injury specifically attributable to the nature of his duty ;

and is permanently incapacitated for asylum duties as the result of such injury, the visiting committee of such asylum may grant to him such gratuity or special superannuation allowance as they may consider reasonable :

Provided that a superannuation allowance shall not in any case exceed two-thirds of the salary or wages and emoluments of the superannuated person, and a gratuity granted under this section shall not exceed one year's salary or wages and emoluments of the person to whom it is granted.

Duty of
visiting com-
mittee in
cases where
superannua-
tion allow-
ances are
granted on
ground of
incapacity.

3.—(1) Where an established officer or servant is entitled to receive, or is granted a superannuation allowance, on the ground of incapacity for the performance of his duty, the visiting committee of the asylum shall, yearly or otherwise, until the power under this Act of requiring such officer or servant to serve again ceases, satisfy themselves that the incapacity continues, and, unless they resolve that such evidence is unnecessary, shall satisfy themselves by the evidence of a legally qualified medical practitioner selected by the visiting committee.

(2) In the event of the incapacity ceasing before the time at which the officer or servant would if he had continued to serve have been entitled without a medical certificate to retire and receive a superannuation allowance for life, the visiting committee of the asylum

may cancel his superannuation allowance and require him to serve again in the asylum at a rate of pay and emoluments (if any) not less than the rate which he received before his retirement. Appen- dix I.

(3) Where an established officer or servant so serves again, the provisions of this Act as to retirement and superannuation allowances, gratuities, and contributions shall apply as if he had not previously retired, save that the time which elapsed between his former retirement and the commencement of his service again shall not be reckoned as service. Section 3.

4. It shall be competent for the visiting committee with the consent of the local authority to grant at their discretion, and on such terms as they think fit— Power to grant gra- tuities to dependants in case of death of officer or servant.

(a) In the case of an established officer or servant dying while in the service of the asylum who, if he had retired at the time of his death, would have been entitled to a superannuation allowance, a gratuity to his widow or children; and

(b) In the case of an established officer or servant dying (whilst in the service of the asylum) to whom, if he had survived, a special superannuation allowance might have been granted, an annual allowance or a gratuity to his widow or children :

Provided that a gratuity granted under this section shall not exceed his total contributions, or one year's salary or wages and emoluments, whichever is the larger amount, and that an annual allowance granted under this clause shall not exceed two-thirds of his salary or wages and emoluments.

5. An established officer or servant who is dismissed or resigns or otherwise ceases to hold office in consequence of any offence of a fraudulent character or of grave misconduct, shall forfeit all claim to any superannuation allowance under this Act in respect of his previous service, provided that the visiting committee of the asylum in which he was last employed may in special cases, if they see fit, return a sum equal to the amount of all or part of his aggregate contributions under this Act. Forfeiture for fraud, &c.

6. Subject as herein-after provided all services by an established officer or servant in an asylum shall be aggregated and reckoned for the purposes of this Act, whether the services have been continuous or not, and whether they have been rendered at one or more asylums : Provided that, where an officer or servant of an asylum has removed to another asylum, not being an asylum provided by the same local authority, his services in the first asylum shall not be so aggregated and reckoned unless they amount to at least two years' service, and, in the case of an officer or servant who has removed to another asylum after the commencement of this Act, unless he has removed with the written sanction of the visiting committee of the asylum from which he removed. Reckoning service.

7. If an established officer or servant, in receipt of superannuation allowance under this Act, is appointed to any office or employment by any authority to which this Act applies, or to an office or employment remunerated out of money provided by Parliament, or out Case of subsequent ap- pointment.

Appen-
dix I.

Section 7.

of a county or borough rate or fund, or out of any parochial, district, or other rate, he shall not, while holding that office or employment, receive more of the superannuation allowance than, together with the remuneration of that office or employment, is equal to the remuneration of the office or employment in respect of which the superannuation allowance was awarded.

Any such person on ceasing to hold such office or employment shall be entitled to revert to and receive the full amount of his original superannuation allowance from the visiting committee which granted it.

CONTRIBUTION.

Obligation
of officers
and servants
to contribute.

8. Subject to the provisions of this Act, every established officer and servant employed in an asylum shall contribute annually, for the purpose of this Act, a percentage amount of his salary or wages and emoluments, according to the scale laid down in this Act, such amount to be from time to time deducted from the salary or wages payable to him and to be carried to and to form part of the fund from which the superannuation allowances are to be paid.

Scale of
contributions.

9. The percentage amounts to be deducted annually for the purposes of this Act shall be as follows (that is to say) :—

In the case of officers and servants with less than five years' service at the passing of this Act, two per cent. of the salary or wages and emoluments for each year ;

In the case of officers and servants with more than five and less than fifteen years' service at the passing of this Act, two and a half per cent. of the salary or wages and emoluments for each year ;

In the case of officers and servants with more than fifteen years' service at the passing of this Act, or appointed after the passing of this Act, three per cent. of the salary or wages and emoluments for each year.

Return of
contributions
in certain
cases.

10.—(1) An established officer or servant who has not become entitled to a superannuation allowance, and who loses his office or employment by reason of reduction of staff, or of any other cause whatever other than his own misconduct or voluntary resignation, shall be entitled to receive the aggregate amount of his contributions under this Act.

(2) The visiting committee of an asylum may, if they think fit, repay to any female officer or servant leaving to be married after not less than three years' service, the amount of her contributions under this Act, provided that within three months after leaving she produces to the visiting committee her marriage certificate.

(3) If an officer or servant who has received his contributions under this section subsequently obtains a fresh office or employment in an asylum, he shall not be entitled to reckon his service before obtaining such fresh office or employment towards a superannuation allowance under this Act, unless, upon obtaining such fresh office or employment, he repays the amount so received to the visiting committee from whom he received it.

MISCELLANEOUS.

Appendix I.

11. When an established officer or servant of the first class has attained the age of fifty-five, or an established officer or servant of the second class has attained the age of sixty, and the visiting committee of the asylum in which he is employed are of opinion that his retirement would be expedient in the interests of the service, it shall be competent for them to require him to retire upon payment to him of the superannuation allowance to which he may be entitled under this Act :

Section 11.

Provision for retiring officers and servants in certain cases.

Provided that nothing in this section shall prejudice the existing right of any visiting committee to dismiss any officer or servant employed in an asylum, or to reduce him to a lower rate of pay, or shall prevent his claim to superannuation allowance from being refused in any case where under this Act a claim to superannuation allowance is forfeited.

12. Every superannuation allowance or gratuity under this Act shall be paid by the visiting committee of the asylum in which the officer or servant to whom, or to whose widow or children, the superannuation allowance or gratuity is payable was employed at the time of his superannuation or death, and shall be paid out of the fund out of which the salary or wages and emoluments of the officer or servant is or has been paid, and the weekly sum fixed by the visiting committee under section two hundred and eighty-three of the Lunacy Act, 1890, shall be of such amount that the total of such weekly sums shall be sufficient to pay all such superannuation allowances or gratuities in addition to the expenses of maintenance and salaries payable out of such sums under that section :

Payment of allowances and gratuities.

53 & 54 Vict. c. 5.

Provided that, where an established officer or servant of an asylum has removed to some other asylum under such circumstances as entitle him to aggregate his services in such first mentioned asylum with his services in such last mentioned asylum and in due course becomes entitled to and is awarded a superannuation allowance, the visiting committee in whose service he then is shall be entitled to call upon the other visiting committee or committees with whom he shall have served, and they shall contribute a proportionate part of the superannuation allowance to such officer or servant reckoned according to the service and pay of such officer or servant during his service in such asylum, and the said proportionate part shall be settled by agreement between the visiting committees, or in default of agreement, by the Secretary of State.

13. Where, by virtue of any award made under section sixty-two of the Local Government Act, 1888, or section two hundred and forty-four of the Lunacy Act, 1890, any liability is imposed on any county council or the council of any county borough to contribute to any superannuation allowances granted to any officer or servant of an asylum, such liability shall, unless and until otherwise provided by subsequent award, agreement, or otherwise, continue in the same manner and to the same extent as if this Act had not been passed : Provided that any sums payable under any such award in respect of superannuation allowances granted under this Act shall be paid to

Saving of liabilities in respect of contributions to allowances.
51 & 52 Vict. c. 41.
53 & 54 Vict. c. 5.

Appendix I.

Section 13.

Assignment.

the visiting committee of any such asylum in lieu of the county council or the council of any county borough to whom the same would otherwise be payable.

14. The following provisions shall have effect with respect to every superannuation allowance, allowance, and gratuity (in this section referred to as a "grant") payable by the visiting committee of an asylum to any person (in this section referred to as the "pensioner") :—

- (1) Every assignment of and charge on a grant, and every agreement to assign or charge a grant, shall, except so far as made for the benefit of the family of the pensioner, be void, and on the bankruptcy of the pensioner the grant shall not pass to any trustee or other person acting on behalf of the creditors :
- (2) Where any parochial relief is given to a pensioner or to any one whom he is liable to maintain, the visiting committee of an asylum may pay the whole or any part of the grant to the guardians or other authority giving the relief, and the same, when so paid, may be applied in repayment of any sums expended in such relief, and, subject thereto, shall be paid or applied by the guardians or other authority to or for the benefit of the pensioner :
- (3) If the pensioner neglects to maintain any person whom he is liable to maintain, the visiting committee of an asylum may in their discretion pay or apply the whole or any part of the grant to or for the benefit of that person :
- (4) If the pensioner appears to the visiting committee of an asylum to be insane or otherwise incapacitated to act, the visiting committee of the asylum may pay so much of the grant as the visiting committee of the asylum think fit to the institution or person having the care of the pensioner, and may pay the surplus (if any) or such part thereof as the visiting committee think fit for or towards the maintenance and benefit of the wife or relatives of the pensioner :
- (5) On the death of a pensioner to whom a sum not exceeding one hundred pounds is due on account of a grant, then, if the visiting committee of the asylum so direct, probate or other proof of the title of the personal representative of the deceased may be dispensed with, and the sum may be paid or distributed to or among the persons appearing to the visiting committee of the asylum to be beneficially entitled to the personal estate of the deceased pensioner, or to or among any one or more of those persons, or, in case of the illegitimacy of the deceased pensioner, to or among such persons as the visiting committee of the asylum may think fit, and the visiting committee of the asylum, and any officer of the visiting committee making the payment, shall be discharged from all liability in respect of any such payment or distribution :
- (6) Any sum payable to a minor on account of a grant may be paid either to the minor or to such person and on such

conditions for the benefit of the minor as to the visiting committee of the asylum seems expedient :

- (7) Where a payment is made to any person by the visiting committee of an asylum in pursuance of this section, the receipt of that person shall be a good discharge for the sum so paid :

Appendix I.

Section 14.

- (8) The visiting committee of an asylum may, with the consent of the Secretary of State, make rules with respect to declarations to be taken for any purpose relating to grants payable by them, and, while any such rules so made are in force, a person shall not be entitled to receive any sums in respect of a grant payable by such visiting committee until any declaration required by those rules has been made. Any person who makes a wilful misstatement of material fact in any such declaration shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment with or without hard labour not exceeding three calendar months.

15. In the case of any dispute as to the right to superannuation allowance of any officer or servant of an asylum, or as to the amount of the superannuation allowance to which any such officer or servant is entitled, such dispute shall be determined by the Secretary of State, whose decision shall be final.

Appeal in cases of dispute.

16. The salary or wages and emoluments of an established officer or servant shall, for the purpose of computing the amount of a superannuation allowance or gratuity, be calculated according to the average amount of his salary or wages and emoluments during the ten years ending on the quarter day which immediately precedes the day on which he ceases to hold his office or employment, or, in the case of an officer or servant with less than ten years' service, on the average amount during his whole period of service ; and the expression " emoluments " includes all fees, poundage and other payments made to any established officer or servant as such for his own use, and also the money value of any apartments, rations, or other allowances in kind appertaining to his office or employment.

Salary or wages and " emoluments."

The annual money value of all such fees, poundage and other payments, apartments, rations, or other allowances in kind shall be set out in a schedule to be prepared by the visiting committee of every asylum and affixed in a conspicuous place in the asylum.

- 17.—(1) In this Act, if not inconsistent with the context,—

Interpretation.

" Asylum " means (1) an asylum for lunatics provided by a county or borough, or by a union of counties or boroughs ;

(2) a Metropolitan Asylums Board asylum for imbeciles ;

" Established officer or servant " means such officer or servant employed in a permanent capacity as has the care or charge of the patients or whom the visiting committee of an asylum shall by resolution determine to be an established officer or servant ;

" Local authority " means the local authority by which an asylum is provided, or, in the case of an asylum provided by two or more local authorities, those local authorities, and,

Appen-
dix I.

in the case of an asylum provided by the Lancashire Asylums Board; that Board.

Section 17.

(2) In the case of an asylum provided or maintained by the Lancashire Asylums Board, for references in this Act to the visiting committee of an asylum there shall be substituted references to that Board, or a visiting committee appointed by that Board, as the case may be.

(3) In the case of an asylum for imbeciles provided or maintained by the Metropolitan Asylums Board, for references in this Act to the visiting committee of an asylum there shall be substituted references to the Board of Managers of the Metropolitan Asylums District, and for references to the Secretary of State there shall be substituted references to the Local Government Board.

Application
to Scotland.

18. This Act shall come into operation in Scotland on the fifteenth day of May nineteen hundred and ten, and, if not inconsistent with the context, in the application of this Act to Scotland—

“Asylum” means a district asylum, and “visiting committee” means a district board within the meaning of the Lunacy (Scotland) Acts, 1857 to 1887;

References to the General Board of Commissioners in Lunacy for Scotland shall be substituted for references to the Secretary of State and also for references to the local authority;

A reference to the weekly charge for pauper lunatics fixed and approved from time to time pursuant to section seventy-three of the Lunacy (Scotland) Act, 1857, shall be substituted for the reference to the weekly sum fixed by the visiting committee under section two hundred and eighty-three of the Lunacy Act, 1890;

The expression “established officer or servant” has the meaning in this Act assigned thereto, but shall not include an officer or servant who does not devote his whole time to the duties of his office;

Provided that this Act shall apply to the Greenock parochial asylum and the Kirklands asylum as if they were district asylums, and the respective managing bodies thereof were district boards.

For amendments to this Act, see section 69 of the Mental Deficiency and Lunacy (Scotland) Act, 1913 (3 & 4 Geo. 5, c. 38).

Application
to Ireland.

19. In the application of this Act to Ireland—

“Asylum” means a district or auxiliary asylum;

References to the Lord Lieutenant shall be substituted for references to the Secretary of State;

References to local authorities shall not apply;

References to a committee or a joint committee, as the case may be, appointed under section nine of the Local Government (Ireland) Act, 1898, shall be substituted for references to a visiting committee;

The reference to parochial relief shall be construed as a reference to union relief.

A requirement to retire under section eleven of this Act shall,

61 & 62 Vict.
c. 37.

in its application to an established officer or servant who is an existing officer within the meaning of the Local Government (Ireland) Act, 1898, be subject to the approval of the Lord Lieutenant.

Appendix I.

Section 19.

20.—(1) The enactments specified in the schedule to this Act are hereby repealed to the extent specified in the third column thereof, subject to this qualification, that this repeal shall not affect the payment of any superannuation allowance granted before the commencement of this Act.

Repeals.

Any established officer or servant employed in an asylum at the date of the commencement of this Act may, at any time within three months after the commencement of this Act, signify in writing to the visiting committee of the asylum his intention not to avail himself of the provisions of this Act, and in that event it shall not be obligatory on him, notwithstanding anything in this Act contained, to make any contribution, or submit to any deduction from his salary or wages, under this Act, nor shall he be entitled to receive any superannuation allowance, gratuity, or other benefit under this Act; but any such established officer or servant of an asylum who has given such notice as aforesaid shall remain subject to the provisions of the enactments repealed by this Act or, in the case of an officer or servant of the Metropolitan Asylums Board to the Poor Law Officers' Superannuation Act, 1896, with respect to the superannuation allowances of officers and servants in asylums as if this Act had not been passed. After the expiration of three months from the commencement of this Act, the Poor Law Officers' Superannuation Act, 1896, shall cease to apply to any established officer or servant employed in an asylum who has not, in the manner provided by this section, signified his intention not to avail himself of the provisions of this Act.

59 & 60 Vict. c. 50.

(2) Any officer or servant of the asylum who is at the date of the commencement of this Act in the service of a visiting committee of an asylum to which this Act applies, and who is not, or is not determined to be, an established officer or servant within the meaning of this Act, shall remain subject to the provisions of the enactments repealed by this Act with respect to the superannuation allowances of officers and servants in asylums as if this Act had not been passed.

21. This Act may be cited as the Asylums Officers' Superannuation Act, 1909, and, except in Scotland, shall come into operation on the first day of April nineteen hundred and ten.

Short title and commencement of Act.

Appendix I.

SCHEDULE.

A.D. 1909.	Session and Chapter.	Title or Short Title.	Extent of Repeal.
Section 20.			
	19 & 20 Vict. c. 99.	The Lunatic Asylums Superannua- tions (Ireland) Act, 1856.	The whole Act so far as unrepealed.
	30 & 31 Vict. c. 118.	The Lunacy (Ireland) Act, 1867 ..	Section eight.
	53 Vict. c. 5.	Lunacy Act, 1890	Sections two hundred and eighty, two hundred and eighty-one, and two hundred and eighty-two.
	53 & 54 Vict. c. 31.	The Pauper Lunatic Asylums (Ireland) Superannuation Act, 1890.	The whole Act so far as unrepealed.

APPENDIX II.

Appen-
dix II.

MENTAL DEFICIENCY.

AT THE COURT AT BUCKINGHAM PALACE,

The 9th day of March, 1914.

PRESENT: THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS by Section 22 of the Mental Deficiency Act, 1913, a Board of Control (in the said Act referred to as "the Board") has been constituted;

And whereas by Section 65 of the said Act it is enacted that "all the powers and duties of the Commissioners in Lunacy under the Lunacy Acts, 1890 to 1911, shall, as from the commencement of this Act, be transferred to the Board, and His Majesty may, by Order in Council, direct that anything which under those Acts is required or authorized to be done by, to, or in respect of, any one or more Commissioners in Lunacy or any Officer of those Commissioners, shall be done by, to, or in respect of, one or more Commissioners under this Act, or the corresponding Officer of the Board:

"Provided that nothing in such Order in Council shall authorize anything by those Acts required to be done by two Commissioners, one a medical practitioner and the other a barrister, to be done otherwise than by two Commissioners, one a medical and the other a legal Commissioner but the Order may provide that, in the case of the temporary illness or disability of a legal or medical Commissioner, the Lord Chancellor or the Secretary of State (as the case may be) may appoint a person qualified to be a legal or medical Commissioner to act as substitute so long as the illness or disability continues":

NOW, THEREFORE, His Majesty, by and with the advice of His Privy Council, and by virtue of the authority committed to Him by the Mental Deficiency Act. 1913, and of all other powers enabling Him

Appen-
dix II.

in that behalf, is pleased to order, and it is hereby ordered, as follows :—

As from the commencement of the Mental Deficiency Act, 1913, hereinafter called “ the Act ”

1. Save as hereinafter provided, anything which under the Lunacy Acts, 1890 to 1911, is required or authorized to be done by, to, or in respect of any one, or more than one, or any specified number of Commissioners in Lunacy shall be done by, to, or in respect of any one Commissioner or any number of the Commissioners under the Act ; and anything which is required or authorized to be done by, to, or in respect of any Officer of the Commissioners in Lunacy shall be done by, to, or in respect of a corresponding Officer of the Board ; and the Secretary or any Assistant Secretary to the Board shall be deemed to be an Officer corresponding to the Secretary to the Commissioners in Lunacy.

Provided as follows :—

- (1) Where by the Lunacy Acts, 1890 to 1911, any such thing is in the alternative required or authorized to be done by, to, or in respect of the Commissioners in Lunacy nothing in this Order contained shall be construed to prevent its being done by, to, or in respect of, the Board.
- (2) Where, by the Lunacy Acts, 1890 to 1911, anything is required or authorized to be done by, two or not less than two, or by two or more, of the Commissioners in Lunacy, one of whom is required to be a medical practitioner or medical Commissioner in Lunacy and one to be a barrister or legal Commissioner in Lunacy, the Commissioners under the Act doing any such thing shall be or shall include one medical and one legal Commissioner.

2. In the case of the temporary illness or disability of a legal or medical Commissioner under the Act, the Lord Chancellor or the Secretary of State (as the case may be) may appoint a person qualified to be a legal or medical Commissioner to act as substitute as long as the illness or disability continues ; and such substitute while he so acts shall be deemed to be a legal or medical Commissioner (as the case may be) under the Act for the purposes of this Order

3. If a medical or legal Commissioner under the Act, after resigning his office, is appointed an unpaid Commissioner, he may upon the request of the Board perform any duty under the Lunacy Acts, 1890 to 1911, which he might have performed before his resignation, and shall be deemed in respect of any duty he is so requested to perform to be a medical or legal Commissioner (as the case may be) under the Act for the purposes of this Order.

ALMERIC FITZROY.

PROVISIONAL REGULATIONS MADE BY THE SECRETARY OF STATE UNDER THE MENTAL DEFICIENCY ACT, 1913.

Dated 1st May, 1914.

(SUPPLEMENTARY TO THE PROVISIONAL REGULATIONS DATED
2ND APRIL, 1914.) (a)

In pursuance of the powers conferred on me by the Mental Deficiency Act, 1913, I hereby make the following Regulations and I certify in pursuance of Section 2 of the Rules Publication Act, 1893, that on account of urgency the following Regulations should come into operation forthwith as Provisional Regulations :—

1. These Regulations may be cited as the Mental Deficiency Act Provisional (Supplementary) Regulations, 1914.

CONTINUATION OF DETENTION ORDERS.

2. The special reports required by Section 11 of the Act on the expiration of an order of detention or guardianship shall be in the forms D1 and D2 in the Schedule to the Mental Deficiency Act Provisional Regulations, 1914, or in forms to the like effect, and an order of the Board continuing such order shall be in the form D3 in the said Schedule or a form to the like effect.

PROCEDURE IN CONNECTION WITH CONTRIBUTION ORDERS.

3. Orders for contribution towards the maintenance of a person in an Institution or under Guardianship and applications for such orders and for the revocation or variation of such orders may be made in the forms O1 to O3 in the Schedule hereto or in forms to the like effect, and when the application is made to a magistrate or specially appointed justice the Summary Jurisdiction Acts shall apply as in the case of proceedings on complaint.

PROCEDURE FOR DEALING WITH DEFECTIVES CHARGED WITH OFFENCES.

4. The forms G1 to G6 in the Schedule hereto or forms to the like effect may be used for the purposes of Section 8 of the Act, and may be used when the circumstances so require as variations of the corresponding forms in the Schedules to the Summary Jurisdiction Act Rules, 1886, and the Summary Jurisdiction (Children Act) Rules, 1909.

NOTICE OF THE RECEPTION OF A DEFECTIVE INTO PRIVATE CARE.

5. Where a person undertakes the care and control of any person who is a defective, or is placed under his care as being a defective,

(a) For Provisional Regulations dated 2nd April, 1914, see *post*.

Appendix II.

Schedule.

FORMS.

the notice of reception to be sent to the Local Authority and to the Board of Control shall be in the form N in the Schedule hereto.

Dated the 30th day of April, 1914.

R. McKenna,

One of His Majesty's Principal
Secretaries of State.

SCHEDULE.

FORM O1.

Application for a contribution order.

IN THE MATTER OF *A.B.* of in the County (Borough) of ,
a defective.

To *S.T.*, a Judicial Authority under the Mental Deficiency Act.

The application of *C.D.* of in the County of Sheweth

1. That the said *A.B.* was on the day of ordered by
(*M.N.*, a Judicial Authority under the said Act) (The Court of Assize)
(Quarter Sessions) (Petty Sessions) holden at) (the Secretary
of State) to be (detained in the Institution at) (placed under
the Guardianship of).

2. That the said *C.D.* is (the person on whose petition the said Order was
made) (a Manager of the said Institution) (the Guardian of the said *A.B.*)
(an officer duly authorized in that behalf of the Council of the County
(Borough) of).

3. The said *C.D.* prays that an Order may be made requiring (the said
A.B.) (*X.Y.*, a person liable to maintain the said *A.B.*) to contribute such
sum (towards the expenses of his maintenance in the institution and other
charges incidental thereto, including the cost of his conveyance to the
institution, and in the event of his death in the institution his funeral
expenses) (towards the expenses of his guardianship and any charges
incidental thereto) as having regard to the ability of (the said *A.B.*) (the
said *X.Y.*) seems reasonable.

Signed by the said *C.D.* this day of 19 .
Before me, *S.T.*

FORM O2.

Order to contribute.

IN THE MATTER OF *A.B.*, a defective.

I, the undersigned *S.T.*, being a Judicial Authority under the Mental
Deficiency Act, having considered the application of *C.D.* (insert status of
C.D.) that an order shall be made requiring (the said *A.B.*) (*X.Y.*, a person
liable to maintain the said *A.B.*) to contribute such sum (towards the
expenses of his maintenance in the institution at , and any charges
incidental thereto, including the cost of his conveyance to the institution,

and in the event of his death in the institution his funeral expenses) (towards the expenses of his guardianship and any charges incidental thereto) as having regard to the ability of (the said *A.B.*) (the said *X.Y.*) seems reasonable, do hereby order that the said () shall pay unto (the Managers of the said Institution) (the Guardian of the said *A.B.*) (the said Local Authority) the sum of (weekly) (monthly) so long as the said *A.B.* shall remain (in the said institution) (under the guardianship of) (and the sums shown on the margin thereof towards the charges incidental thereto).

Appen-
dix II.
FORMS.
Costs of
conveyance
Funeral
expenses in
event of
death in
institution
Other
incidental
charges

This day of , 19 .

S.T.

(County Court Judge, or as the case may be).

FORM O3.

Application for variation of order.

IN THE MATTER OF *A.B.*, a defective.

To *S.T.*, a Judicial Authority under the Mental Deficiency Act.

The application of *C.D.* of in the County (Borough) of , sheweth

1. That the said *A.B.* was on the day of 19 ordered by (*M.N.*, a Judicial Authority under the said Act) (The Court of (Assize) (Quarter Sessions) (Petty Sessions) holden at) (The Secretary of State) to be (detained in the institution at) (placed under the Guardianship of).

2. That on the day of 19 , an Order was made by *S.T.*, a Judicial Authority under the said Act requiring (the said *A.B.*) (*X.Y.*, a person liable to maintain the said *A.B.*) to contribute the sum of , (weekly) (monthly) so long as the said *A.B.* should remain (in the institution) (under the guardianship of) (and the sums shown on the margin hereof towards the charges incidental thereto).

3. That it is expedient that the said order be varied.

4. That the said *C.D.* is (the petitioner on whose petition the order of detention or guardianship was made) (a Manager of the said Institution) (the Guardian of the said *A.B.*) (an officer duly authorized in that behalf of the Council of the County (Borough) of () (the person on whom the said order to contribute was made).

5. That the said *C.D.* prays that the said order be varied and that the said (*A.B.*) (*X.Y.*) be required to pay such other sum (towards the expenses of his maintenance in the institution and other charges incidental thereto, including the cost of his conveyance to the institution, and in the event of his death in the institution his funeral expenses) (towards the expenses of his guardianship and any charges incidental thereto) as having regard to the ability of the defective or person liable to maintain him seems reasonable.

Signed by the said *C.D.* this day of 19

Before me, *S.T.*

Appen-
dix II.

FORM G1.

Detention Order in case of Offence triable summarily.

FORMS.

In the [County of *Petty Sessional Division of*].
Before the Court of Summary Jurisdiction sitting at , the
day of , One Thousand Nine Hundred and .

A.B., hereinafter called the defendant, is this day charged for that he, on
the day of , One Thousand Nine Hundred and ,
at , within the aforesaid, did

contrary to the Statute, &c.,

And the Court finds that the charge is proved ;

And the Court, being satisfied on medical evidence that the defendant is a defective within the meaning of the Mental Deficiency Act, 1913, being (an idiot) (an imbecile) (a feeble-minded person) (a moral imbecile) hereby orders that the defendant (whose place of residence is at in the County (Borough) of , and whose religious persuasion appears to be) be (sent to the { Certified Institution } at) (placed under the Guardianship of).

J.P. (L.S.)

Justice of the Peace for the (County) aforesaid.

J.P. (L.S.)

Justice of the Peace for the (County) aforesaid.

NOTE.—Where the Council of a County or County Borough will by virtue of the Mental Deficiency Act become responsible for the expenses of a defective ordered to be sent to a certified institution or placed under guardianship, the order must recite that the Council has been given the opportunity of being heard, and must find that the defective resides within the area of the Council, and if the institution to which such defective is ordered to be sent is not provided by the Council the order must either find that there is no room in an institution suitable for him provided by the Council, or must be expressed to be made with the consent of the Council.

FORM G2.

Detention Order in case of Indictable Offence.

In the [County of *Petty Sessional Division of*].
Before the Court of Summary Jurisdiction sitting at the
day of , One Thousand Nine Hundred and .

A.B., hereinafter called the defendant, is this day charged for that he, on
the day of , One Thousand Nine Hundred and at
, within the aforesaid, did

contrary to the Statute, &c.

And the defendant having (consented to be dealt with summarily) (pleaded guilty to the said charge) the Court finds that the charge is proved ;

And the Court, being satisfied on medical evidence that the defendant is a defective within the meaning of the Mental Deficiency Act, 1913, being (an idiot) (an imbecile) (a feeble-minded person) (a moral imbecile), hereby

orders that the defendant (whose place of residence is at _____ in the Appen-
County (Borough) of _____, and whose religious persuasion appears to be _____
be _____) be (sent to the { Certified Institution } at) (placed under _____
the Guardianship of _____) at (placed under _____) FORMS.

J.P. (L.S.)

Justice of the Peace for the (County) aforesaid.

J.P. (L.S.)

Justice of the Peace for the (County) aforesaid.

NOTE.—Where the Council of a County or County Borough will by virtue of the Mental Deficiency Act become responsible for the expenses of a defective ordered to be sent to a certified institution or placed under guardianship, the order must recite that the Council has been given the opportunity of being heard, and must find that the defective resides within the area of the Council, and if the institution to which such defective is ordered to be sent is not provided by the Council, the order must either find that there is no room in an institution suitable for him provided by the Council, or must be expressed to be made with the consent of the Council.

FORM G3.

Detention Order in case of Child liable to be sent to an Industrial School.

In the [County of _____ Petty Sessional Division of _____].

Before the Court of Summary Jurisdiction sitting at _____, the
day of _____, One Thousand Nine Hundred and _____.

Whereas (here insert that one of the recitals in Schedule B of the Summary Jurisdiction (Children Act) Rules, 1909, appropriate to the case),

The Court finds that the said child is liable to be sent to an Industrial School.

And the Court, being satisfied on medical evidence that the said child is a defective within the meaning of the Mental Deficiency Act, 1913, being (an idiot) (an imbecile) (a feeble-minded person) (a moral imbecile), hereby orders that the said child (whose place of residence is at _____ in the County (Borough) of _____, and whose religious persuasion appears to be _____) be (sent to the { Certified Institution } at) (placed under the Guardianship of _____) at (placed under _____).

J.P. (L.S.)

Justice of the Peace for the (County) aforesaid.

J.P. (L.S.)

Justice of the Peace for the (County) aforesaid.

NOTE.—Where the Council of a County or County Borough will by virtue of the Mental Deficiency Act become responsible for the expenses of a defective ordered to be sent to a certified institution or placed under guardianship, the order must recite that the Council has been given the opportunity of being heard, and must find that the defective resides within the area of the Council, and if the institution to which such defective is ordered to be sent is not provided by the Council, the order must either find that there is no room in an institution suitable for him provided by the Council, or must be expressed to be made with the consent of the Council.

Appen-
dix II.

FORMS.

FORM G4.

Detention Order pending Presentation of Petition in case of Offence
triable summarily.

In the [*County of* *Petty Sessional Division of*].

Before the Court of Summary Jurisdiction sitting at the
day of , One Thousand Nine Hundred and .

A.B., hereinafter called the defendant, is this day charged for that he,
on the day of , One Thousand Nine Hundred and ,
at , within the aforesaid, did

contrary to the Statute, &c.,

And the Court (finds that the charge is proved) (convicts the defendant of
the said offence) ;

And the Court, being satisfied on medical evidence that the defendant is
a defective within the meaning of the Mental Deficiency Act, 1913 (without
proceeding to a conviction) (postpones passing sentence, and) directs that a
petition be presented to a judicial authority under the said Act with a view
to obtaining an order that the defendant be sent to an institution or placed
under guardianship ;

And the Court orders the defendant to be detained in the institution for
Defectives at or the Place of Safety at for such time not
exceeding as is required for the presentation of the petition and
the adjudication thereof.

J.P. (L.S.)

Justice of the Peace for the (County) aforesaid.

J.P. (L.S.)

Justice of the Peace for the (County) aforesaid.

FORM G5.

Detention Order pending Presentation of Petition in case of Indictable
Offence.

In the [*County of* *Petty Sessional Division of*].

Before the Court of Summary Jurisdiction sitting at the
day of , One Thousand Nine Hundred and .

A.B., hereinafter called the defendant, is this day charged for that he,
on the day of , One Thousand Nine Hundred and ,
at , within the aforesaid, did

contrary to the Statute, &c.,

And the defendant having (consented to be dealt with summarily)
(pleaded guilty to the said charge) the Court (finds that the charge is
proved) (convicts the defendant of the said offence) ;

And the Court, being satisfied on medical evidence that the defendant is
a defective within the meaning of the Mental Deficiency Act, 1913 (without
proceeding to a conviction) (postpones passing sentence, and) directs that a
petition be presented to a Judicial Authority under the said Act with a view

to obtaining an order that the defendant be sent to an institution or placed under guardianship ;

Appendix II.

And the Court orders the defendant to be detained in the Institution for Defectives at or the Place of Safety at for such time not exceeding as is required for the presentation of the petition and the adjudication thereof.

FORMS.

J.P. (L.S.)

Justice of the Peace for the (County) aforesaid.

J.P. (L.S.)

Justice of the Peace for the (County) aforesaid.

FORM G6.

Detention Order pending Presentation of Petition in case of Child liable to be sent to an Industrial School.

In the [County of Petty Sessional Division of].

Before the Court of Summary Jurisdiction sitting at the day of , One Thousand Nine Hundred and .

Whereas (Here insert that one of the recitals in the Summary Jurisdiction (Children Act) Rules, 1909, appropriate to the case),

The Court finds that the said child is liable to be sent to an Industrial School ;

And the Court, being satisfied on medical evidence that the said child is a defective within the meaning of the Mental Deficiency Act, 1913, postpones making an order for committal to an Industrial School, and directs that a petition be presented to a Judicial Authority under the said Act with a view to obtaining an order that the said child be sent to an institution or placed under guardianship ;

And the Court orders the said child to be detained in the Institution for Defectives at or the Place of Safety at for such time not exceeding , as is required for the presentation of the petition and the adjudication thereof.

J.P. (L.S.)

Justice of the Peace for the (County) aforesaid.

J.P. (L.S.)

Justice of the Peace for the (County) aforesaid.

FORM N.

Notice of Reception.

To be forwarded to the Board of Control and to the Local Authority within 48 hours after the patient's reception.

I hereby give you notice that , formerly residing at , was received into my care and control as a defective in this house on day of , 19 .

Appendix II.

FORM.

The following particulars relate to the said defective :—

- i. age :
- ii. sex. :
- iii. Name and address of parent or guardian, or relative or other person at whose request the defective was received :
- iv. Apparent (a) nature and degree of mental defect :
- v. bodily condition :

*Signed*The person having the care of the said defective
at (b)

Dated the day of , 19 .

BOARD OF CONTROL'S CIRCULAR.

The Board of Control,
66, Victoria Street, London, S.W.,
2nd April, 1914.

SIR,

1. In the Circular Letter which was issued by the Secretary of State in December last calling the attention of the Councils of Counties and County Boroughs to their powers and duties under the Mental Deficiency Act, 1913, it was intimated that the Board of Control would at an early date furnish the Local Authorities with information as to the Regulations made under the Act, as to the scheme of distribution of the Treasury Grant and other matters of administration.

2. The Board has now received the approval of the Secretary of State and the other Authorities concerned to the Schemes and Regulations referred to below, and I have the honour to request that you will lay them before the County Council of for their guidance in the execution of their duties.

Financial.

3. The Lords Commissioners of His Majesty's Treasury have assented to provision being made in the Estimates for the present financial year beginning on the 1st April under which when the money has been voted by Parliament the Board will have at their disposal a sum of £75,000 for the purpose of assisting Local Authorities in meeting the expenses incurred by them in carrying out their obligations under the Act.

(a) The terms in S. 1 of the Mental Deficiency Act should be used.

(b) Name or number of house with full postal address.

Inasmuch as the payments of the Government Grant will be made on claims submitted quarterly by the Local Authorities and as not more than three quarterly payments can be made during the financial year 1914-15, this represents a contribution at the rate of £100,000 per annum. Appendix II.

In addition to this contribution, the Board will distribute to Local Authorities such sums as may be necessary to meet a proportion which will not be less than one-half of the approved cost on income account incurred by them in the maintenance of defectives sent to Certified Institutions or placed under Guardianship by the Secretary of State under Section 9 of the Act or by or at the instance of a Criminal Court under Section 8 of the Act. These defectives are in this Circular referred to as criminal defectives.

4. The duties imposed on Local Authorities under Section 30 of the Act which involve expenditure towards which contributions will be made by the Board include—

- i. The payment of the salaries, allowances and expenses of medical and other officers appointed to assist the Local Authorities in ascertaining the number of defectives within their area with whom they have to deal, in exercising supervision over them, in taking steps when necessary to have them placed under control, and generally in carrying out their duties under the Act : Section 30 (g) ;
- ii. The ascertainment of the number of defectives within their area who are subject to be dealt with under Section 2 (1) (b) of the Act : Section 30 (a) ;
- iii. The maintenance of supervision over defectives and the taking of steps to secure when necessary that they are sent to Institutions or placed under Guardianship : Section 30 (b) ;
- iv. The provision of accommodation for defectives when ordered to be sent to Certified Institutions, the conveyance of defectives thereto and removal therefrom and their maintenance therein : Section 30 (c) ;
- v. The provision of guardianship for defectives, when ordered to be placed under guardianship : Section 30 (d).

5. The Board will have no funds out of which they could make direct grants towards expenditure incurred by Local Authorities in purchasing sites or erecting buildings, nor can they give financial assistance to Local Authorities in carrying out their permissive powers under the Act : Section 30 (e) (f).

6. The contribution of the Board will take the form of the payment of one-half of the net amount, as approved by them, of the cost on income account of performing the above-mentioned duties. The cost on income account will, as respects an Institution provided by a Local Authority, whether alone or in combination with other Local Authorities, include expenditure out of income by the Authority by way of interest on or repayment of capital raised, or by way of rent or other similar payment, for the purposes of the provision of the Institution : Section 71 (2). The Government therefore will bear their due share of the cost of sites and buildings.

Appen-
dix II.

The Act provides that in all cases when such a contribution as above mentioned is made by the Board the Local Authorities will come under the statutory duty imposed by Section 30 to give effect to the Act with respect to such cases.

7. The obligations of the Local Authorities extend not only to defectives dealt with by order made on a petition to a Judicial Authority, but also to criminal defectives dealt with by a Court under Section 8 of the Act, or by the Secretary of State under Section 9.

8. The amount of the contribution in "criminal" cases will in general be the same as in others. The following special arrangements have been approved by the Treasury :—

A defective ordered by the Secretary of State in pursuance of Section 9 of the Act to be transferred from a prison or other establishment to a Certified Institution for defectives or to guardianship may be under a sentence of imprisonment or other order authorizing his detention for a fixed and definite period. In such a case the Board will, if the defective has been removed from a prison, a Borstal Institution, a place of detention, a criminal lunatic asylum or a State Inebriate Reformatory, provide the funds necessary to meet the entire cost of his maintenance during the outstanding portion of the sentence, after which, if further detention be necessary, the cost will be divided equally between the State and the Local Authorities. If the defective before removal was undergoing Penal Servitude, the Government will meet the whole cost of his maintenance during the period which will elapse before the date upon which he would in the ordinary course be released on licence. If, however, the defective is removed from a Certified Inebriate Reformatory or from a Certified Reformatory or Industrial School where Local Authorities have heretofore been liable to contribute towards the cost of maintenance, the cost of conveyance to and detention in the Certified Institution or under guardianship will be borne in equal shares by the Board and the Local Authorities.

Where a Court before which a defective is found guilty on a criminal charge thinks fit in lieu of passing sentence to make an Order under Section 8 sending the defective to an Institution or placing him under guardianship, or directs that a petition shall be presented in respect of him to a Judicial Authority and an order for detention or guardianship is subsequently made by the Judicial Authority, the Board will meet the entire cost of the defective's conveyance and of his maintenance for the first three months, after which the charges will be shared equally by the Government and the Local Authorities.

Where a defective child brought before a Court under Section 58 of the Children Act is found liable to be sent to an industrial school but the Court in lieu of making an order of committal to a school makes an order sending him to an Institution or placing him under guardianship or procures the making of such an order by a Judicial Authority the cost of the child's maintenance will from the beginning be borne equally by the Local Authority and the State.

9. The grant of £75,000 will be allotted by the Board to the various Local Authorities, in the first instance in proportion to the population

of their areas. The only trustworthy evidence as to the local incidence of mental defect is that elicited by the special investigations carried out by the Royal Commission on the Feeble Minded. The report of that Commission states that in general the incidence of mental defect is alike both in town and country throughout England and Wales. Appen-
dix II.
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10. On this basis the grant to be assigned initially to the County Council of will amount to £ for the year 1914-15. This sum represents the maximum amount (subject to revision hereafter as provided in paragraph 12 below) which the Board will repay during the financial year 1914-15; and when added to a similar sum to be provided by the Council will make a total amount of £ which is the limit of the expenditure in carrying out their obligatory duties under the Act to which the Council is committed for the nine months ended December the 31st, 1914, except so far as relates to "criminal" defectives. The Council may in its discretion incur further expenditure for the benefit of defectives in the exercise of its permissive powers, and such voluntary expenditure whether incurred in the care and protection of defectives generally or confined to defectives coming within Section 2 (1) (b) of the Act is subject only to the enactment in Section 33 (1) that it shall not in any one year exceed the produce of a rate of $\frac{1}{2}d.$ in the £ on the property assessed for the purposes of such a rate.

11. No doubt some Local Authorities will be in a better position than others to prepare and to bring into operation at an early date schemes providing for the defectives with whom they are under an obligation to deal and so to earn their share in the Government Grant.

12. All Local Authorities are being called upon to submit to the Board at an early date their proposals for giving effect to the Act within their area, and I am to request that you will move your Council to take this matter into their early consideration and to cause the accompanying form to be filled in with the required particulars as to their scheme and its estimated cost, and to return it to the Board of Control not later than the end of April. I am further to request that you will inform the Council that the schedule of distribution of the £75,000 Grant will be revised in July, 1914, after a consideration at that date of the proposals submitted by Local Authorities and a survey of the actual operation and of the prospects of development of the various schemes; and that a further revision may take place later in the financial year.

13. As already stated a sum will also be at the disposal of the Board estimated to be sufficient to meet a proportion not less than one-half of the expenses incurred by Local Authorities in meeting their obligations with respect to "criminal" defectives. This sum evidently cannot be allocated to the various Local Authorities in advance, but must be distributed among them as and when each Authority becomes responsible for the maintenance of a defective dealt with by a Criminal Court or by the Secretary of State.

Local Authorities will not be put to any expense in respect of the actual maintenance in State Institutions of defectives of dangerous

Appendix II.

or violent propensities ; for these the Board will provide accommodation.

14. It is the duty of the Local Authority responsible for the maintenance of a defective to take all necessary steps to procure that a reasonable contribution towards the cost of maintenance and the expenses incidental thereto be made by the defective or by persons liable to maintain him or willing to contribute, and the estimate of their contemplated expenditure forwarded by your Council should show in the place provided in the form the sums expected to be received in this way, and to be available in reduction of the charges against local funds and the Exchequer.

15. All claims for contributions to Local Authorities out of the funds of the Board in respect of payments made by Local Authorities must be rendered quarterly as soon as is practicable after the 30th June, 30th September and 31st December, 1914, and the 31st of March, 1915, on forms which will be supplied to you by the Board. These claims will be met by the Board as soon as the necessary examination of the accounts is completed.

16. The amount of the cost to Local Authorities of the maintenance of defectives in Institutions or under guardianship will vary to some extent in different localities according as the Authorities are able to provide accommodation themselves without heavy expenditure or to make advantageous contracts with the Managers of Certified Institutions. The Board cannot at this stage fix maximum weekly sums beyond which they will not be prepared to approve expenditure on maintenance for the purpose of the Government Grant. But they would urge upon Local Authorities the importance of the strictest economy in every form of provision which they make for defectives who have to be supported out of public monies.

Methods of dealing with Defectives.

17. It is hoped that in many cases where defectives are now neglected or improperly maintained in their own homes, systematic and kindly supervision will bring about a sufficient amelioration of their condition to render further steps unnecessary. If this is impracticable, it should then be considered whether guardianship in the home of some relative or other suitable person will not provide the care and control that is necessary. Guardianship will, no doubt, be impracticable in some cases unless the whole cost of the defectives' maintenance be provided, but in some instances it will be possible to provide it at no cost to the public or at the cost of a small contribution towards necessary expenditure on food and clothing.

The more costly expedient of detention in Institutions should be resorted to only when the other possible courses are obviously inadequate or prove to be attended by danger to the defective.

The Local Authority may provide Institutional accommodation in any of the three ways set out in Section 38 of the Act. It may itself build or otherwise provide an Institution either alone or in combination with any other Local Authority, or may contribute

towards the cost of the establishment of such an Institution by others, Appen-
 or it may contract for the reception of its cases in an Institution dix II.
 already established and certified.

It may provide accommodation for different classes or types of defectives in one or in separate Institutions, and may make provision for defectives who are in a position to pay the whole cost of their maintenance.

It is obvious that in many cases economy and other advantages will arise if Local Authorities avail themselves of the various modes of providing accommodation which are permitted by the Act. Even if the total number of the persons for whom a Local Authority is bound to provide be small, it may be taken as certain that it will include a number of different types of defectives requiring wholly different conditions of treatment and detention; for example, idiots and low grade imbeciles requiring little more than shelter and nursing, children and young persons of a higher grade who will be benefited by training, able-bodied adults of both sexes who are capable of useful employment and other classes, whom it would be difficult to provide for economically and adequately in a single establishment of moderate size.

18. The Local Authority is, in general, bound to take steps for the care and protection of all defectives, including children under seven years of age, who come within the categories enumerated in Section 2 (1) (b) of the Act. Their duties are, however, limited in respect to defectives coming within these categories who for the time being are provided for by Poor Law Authorities under the Acts relating to the relief of the poor, or who for the time being are or who might be provided for by Local Authorities under the Lunacy Acts. The only defectives who are being so provided for in respect of whom the Local Authority will have duties are those defectives who come within one or other of the categories set out in Section 2 (1) (b) and who also come within the Regulations of which copies are enclosed herewith made under Section 30 (ii) and (iii) by the Secretary of State with the concurrence of the Local Government Board and of the Lord Chancellor respectively.

19. The Local Authorities have permissive powers of much wider extent than their statutory obligation to supervise and provide for certain defectives; they may in their discretion assist other defectives in their area by providing or assisting to provide maintenance in an Institution or Approved Home or under guardianship, Section 30 (e).

The permissive powers given by the Act extend to all defectives whatsoever with the exception of lunatics not included within the Regulations made by the Secretary of State with the concurrence of the Lord Chancellor. The Councils are therefore the authority primarily responsible for defectives in their district needing care and protection, and it is the duty of the Board of Control to call upon them to exercise fully the functions imposed upon them for the benefit of defectives up to the limits which are now or may in future be laid down by the amount of the financial provision made by Parliament for their assistance.

20. The Act preserves to a large extent the powers of Poor Law

Appendix II.

Authorities to provide under the Acts relating to the relief of the poor for defectives who are destitute persons; but, save as provided in Section 37, it does not contemplate these Authorities making provision for persons not in need of poor relief, and the action of Poor Law Authorities cannot discharge the Councils from their responsibility.

The powers given to a Local Authority under Section 30 (e) of the Act would enable a Local Authority which thought such a course desirable to undertake the care of any defective who appealed or whose friends appealed to them for assistance, and even of defectives chargeable to Poor Law Authorities upon the application of and under agreement with the Guardians and upon reasonable terms of payment by the latter.

By these means Local Authorities may find it practicable when their co-operation is sought by the Poor Law Authorities to devise comprehensive schemes for the benefit of the whole of the defectives within their area.

It is, therefore, desirable that proposals of Guardians of Unions or of combinations of Unions for purposes including provision for defectives chargeable under the Poor Laws should be taken into consideration by the Local Authorities under the Mental Deficiency Act when they are preparing schemes for giving effect to the Act within their area.

In preparing such schemes it is open to the Local Authorities, when the circumstances admit of it, to apply to the Board under Section 37 of the Act for their approval of premises provided by Boards of Guardians, singly or in combination, with a view to their being used for the reception of defectives under agreement with the Local Authorities. County and County Borough Councils have already been warned in the Circular Letter from the Home Office that it will be useless to seek the authority of the Board for the use of ordinary workhouse accommodation for the detention of defectives, and that applications will be favourably entertained only when the premises in question have been specially provided and properly equipped so as to meet satisfactorily all the requirements of the class or classes of defectives proposed to be received therein. Where a Poor Law Authority or combination of Authorities is contemplating the provision of an Institution with a view to its being available for the use of a Council under Section 37, it is expedient that the Council should, when applied to by the Guardians, give careful consideration to the expediency of such step and to the suitability of the proposed premises for any particular class or classes of defectives for whom they have to provide.

General Duties of Local Authorities.

21. The Regulations which have been made with regard to the duties of Local Authorities do not in general seem to the Board to need supplementing by any comments of their own. There are some points, however, in which it is desirable that Local Authorities should be informed of the views of the Central Authorities.

i. *Ascertainment of Numbers.*—The duty of Local Authorities in this matter is limited to procuring and recording in the prescribed way all necessary information with respect to defectives within their area who are subject to be dealt with under Section 2 (1) (b) of the Act: it would not include an investigation by domiciliary visitation or otherwise into the whole number of defectives irrespectively of whether they need or are entitled to the intervention of the Local Authority. The sources of information most commonly available to the officers of Local Authorities will be:—

- Police and Poor Law Authorities ;
- Hospitals, dispensaries and sanatoria, and medical practitioners ;
- Common lodging houses, shelters, refuges and charitable institutions ;
- Local societies working for the benefit of defectives, for the prevention of cruelty to children and so forth ;
- Ministers of religion, probation officers and district nurses and visitors ;
- Labour Exchanges, friendly societies and working-class organizations ; and Insurance Committees.

It would not in general be right to authorize an application to a Magistrate for a warrant under Section 15 (2) of the Act to enter a house for the purpose of searching for a defective believed to be neglected or cruelly treated unless they are satisfied that immediate action is necessary or that further efforts to obtain voluntary admission would be fruitless.

ii. *Appointment of Officers.*—It may be convenient and expedient for a Local Authority to avail itself of the services of officers who are already employed by a Public Authority as for instance Medical Officers of Health, Relieving Officers, School Attendance Officers and so forth. It is not necessary to obtain the preliminary approval of the Board of Control for such appointments ; but notice should be given to the Local Government Board and to the Board of Education respectively in all cases in which a Local Authority proposes to give new duties to an officer engaged in the administration of the Poor Law, the Laws relating to Public Health or the Education Acts.

iii. *The Committee for the Care of the Mentally Defective.*—The Regulations with respect to the provision and management of Institutions are drafted on the view that these matters will ordinarily be delegated by the Local Authority to its Committee. It is obvious that subject to a general direction as to the mode in which accommodation is to be provided and as to the expenditure to be incurred, the Committee constituted in the manner provided by the Act may with advantage be furnished with full powers of control and management, including such matters as the appointment and regulation of the staff of Institutions, the selection of persons suitable for guardianship, the mode of dealing with individual defectives and so forth.

iv. *Local Societies Supervising and Assisting Defectives.*—The Board entirely concur in the view which has been expressed to you by the Secretary of State as to the probable value of the services of

Appendix II.

such societies when acting in subordination to the Statutory Authorities and in aid and supplement of their work. A Memorandum is enclosed herewith setting out the conditions under which such societies may receive financial assistance from the Exchequer.

I am, Sir,
Your obedient Servant,
W. P. BYRNE,
Chairman.

The Clerk of the
Council.

FORM OF SCHEME.

SCHEME showing the steps proposed to be taken by the Local Authority of the of to carry out their duties and powers under the Mental Deficiency Act, 1913, during the year ending the 31st March, 1915.

A. OBLIGATORY DUTIES [Section 30 (a), (b), (c), (d) and (g)].

1. Ascertaining the numbers of, supervising and dealing with Defectives :

(a) Salaries (or Allowances) of Officers.

[State (i) the numbers and designations of the officers proposed to be appointed or employed and the remuneration proposed to be paid to them ; (ii) the nature of their duties ; (iii) whether the duties are estimated to occupy the whole (or if not, what part) of their time ; (iv) where part-time officers are employed, on what other duties they are ordinarily engaged ; and (v) whether the services of any Societies will be utilized in carrying out any of these duties, and whether and if so what remuneration will be paid to such Societies or their officers.]

(b) Travelling expenses of Officers.

[State (i) the class on railway which it is proposed to allow the officers to travel ; and (ii) the rate, or rates of subsistence allowance (if any) and the conditions under which such subsistence allowance will be given.]

2. Provision of Accommodation for, and Maintenance of, Defectives when sent under Orders to Certified Institutions.

[State (i) the estimated (a) number of defectives who will be dealt with under this head during the year to which the Scheme relates ; (ii) the arrangements proposed to be made for their

(a) This estimate should not include "criminal" defectives dealt with under s. 8 or s. 9 of the Act.

accommodation ; and (iii) if not maintained in an Institution provided by the Local Authority, the weekly rate proposed to be paid for accommodation and maintenance.] Appendix II.

3. Provision of Guardianship for Defectives when placed under Guardianship by Orders.

[State (i) the estimated number of defectives who will be dealt with under this head during the year to which the Scheme relates ; (ii) the arrangements proposed to be made for their Guardianship ; and (iii) the weekly rates proposed to be paid for the Guardianship of the various classes of Defectives.]

B. PERMISSIVE POWERS.

[State (i) the arrangements (if any) which it is proposed to make during the year to which the Scheme relates to carry out any of the powers of the Local Authority other than the obligatory duties mentioned in Section 30 (a) (b) (c) (d) and (g) of the Act ; and (ii) particulars of the expenditure estimated to be incurred during the year in carrying out such arrangements.]

MENTAL DEFICIENCY—EXCHEQUER CONTRIBUTION.

DETAILED ESTIMATE of payments to be made by the Local Authority under the foregoing Scheme during the year ended the 31st March, 1915, in respect of Defectives [excluding “criminal” defectives dealt with under Section 8 or Section 9] dealt with, or subject to be dealt with, otherwise than under Section 2 (1) (a) of the Act.

(1) Ascertaining the numbers of, supervising and dealing with such Defectives [s. 30 (a), (b) and (g)]—

- (a) Salaries (or Allowances) of Officers or other like payments.
- (b) Travelling expenses of Officers :
- (c) Costs and Charges in Legal Proceedings (including charges for medical certificates when not given by the Local Authority’s Medical Officer) :
- (d) Detention of Defectives in places of safety :
- (e) Expenses of Conveyance, Removal, etc. :
- (f) Other Expenses (to be specified) :—

(2) Provision of Accommodation for and Maintenance of such Defectives when sent under Orders to Certified Institutions [ss. 30 (c) and 38 (1)]—

- (a) (i) Maintenance in Institution provided by Local Authority alone or in combination with other Local Authorities :
- (ii) Maintenance in Institution where Local Authority contributes towards Capital cost :

(a) The cost of maintenance in an Institution provided by a Local Authority, or Local Authorities in combination, will cover expenditure out of income by the Authority by way of interest on or repayment of capital raised, or by way of rent or other similar payment for the purposes of the provision of the Institution.

Appendix II.
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- (iii) Maintenance in Institution under Contract :
 - (b) Expenses of Conveyance, Removal, etc. :
 - (c) Other Expenses (to be specified) :—
 - (3) Provision for Guardianship of such Defectives when placed under Guardianship by Orders [s. 30 (d)]—
 - (a) Maintenance :
 - (b) Expenses of Conveyance, Removal, etc. :
 - (c) Other Expenses (to be specified) :—
- Total estimated payments during the year ended 31st March, 1915.

Deduct :—

- (4) Receipts on account of such Defectives—
 - (a) Sums estimated to be received in pursuance of (i) voluntary agreements ; and (ii) Orders made under s. 13 :
 - (b) Other Receipts (to be specified) :—

Net estimated payments, being the net expenditure on Income Account in respect of which Exchequer Contribution will be payable :

TREASURY CONTRIBUTION TOWARDS THE EXPENSES OF SOCIETIES ASSISTING OR SUPERVISING DEFECTIVES.

1. The Board of Control is authorized by the Secretary of State and the Treasury to contribute towards the expenses incurred by Societies which have undertaken the duty of assisting or supervising defectives not in Institutions.

2. Applications for such aid should be addressed to the Board of Control and should be made by the Secretary or other authorized officer of the Society either directly or, if the Society thinks fit, through the Central Council for the care of the mentally defective.

3. The application should set forth :—

- (i) The name of the Society, its Secretary and Treasurer, and its office or other address ;
- (ii) Its membership, invested funds, and subscription list, or other sources of income ;
- (iii) The Local Authority or Authorities which approve it or accept its co-operation ;
- (iv) The precise duties which it undertakes, or is prepared to undertake for the benefit of defectives, or any class of defectives ;
- (v) The district in which it undertakes the above duties ;

- (vi) The number of its practical workers, and of its paid officers, if any ; Appendix II.
 - (vii) An estimate of the number of defectives which the Society will assist or supervise ;
 - (viii) The name and address of any Institution, Home, Refuge, or other similar establishment with which it is connected and the purposes for which such establishment is used ;
 - (ix) Whether its work is restricted to any religious denomination.
4. The application should specify the purposes for which financial aid is desired, the duties, if any, with which it is entrusted by the Local Authority, and the payments made to it by such Authority.
5. The contribution by the Board may be towards—
- (i) the travelling expenses of approved members and officers of the Society while engaged in assisting or supervising defectives ;
 - (ii) the salaries of paid officers of the Society ;
 - (iii) stationery, postage, and office expenses ;
 - (iv) expenses of, or in connection with, a Central Council ; or other expenditure approved by the Board.
6. No contribution will be made towards the expenses of founding a Society which has not come into existence and actually undertaken the duties specified in the Act or some of them.
7. Contributions will be fixed for one year, unless the Board otherwise decide, but they may be renewed. They will ordinarily be paid in quarterly instalments.

BOARDS OF GUARDIANS AND JOINT COMMITTEES OF GUARDIANS—CIRCULAR.

Local Government Board,
Whitehall, S.W.
31st March, 1914.

SIR,

I am directed by the Local Government Board to transmit to you herewith copies of Regulations which have been made by the Secretary of State with the concurrence of the Local Government Board in pursuance of section 30 (proviso ii.) of the Mental Deficiency Act, 1913, which comes into operation on the 1st proximo.

Local Authorities under the Act.

The Local Authorities for the purposes of the Act are the Councils of Counties and County Boroughs, and by section 28 of the Act it is provided that these authorities shall constitute a statutory Committee which shall consist "of such members of the council

Appen-
dix II.

“appointed by the council as the council may determine, and of
“such persons, not being members of the council, but being poor
“law guardians or other persons having special knowledge and
“experience with respect to the care, control, and treatment of
“defectives, appointed by the council as the council may determine,
“and of the persons so appointed some shall be women, and of the
“whole committee the majority shall be members of the council.”

The Board understand that in a number of cases the County and County Borough Councils have already proposed to co-opt on their statutory committees members of Boards of Guardians in their area.

Powers and duties of Local Authorities.

The general powers and duties of the Local Authorities are prescribed by section 30 of the Act. Certain of these duties are obligatory, but the obligation only arises where the contribution out of money provided by Parliament towards the cost on income account of performing such duties amounts to one-half of the net amount (as approved by the Board of Control) of such cost.

The Local Authorities have, in addition, certain permissive powers which may be exercised for the purpose of protecting and assisting even those defectives in respect of whom their intervention is not obligatory, such permissive powers being, however, limited by the proviso that their expenditure on this account shall not exceed in any one year an amount equal to that which would be produced by a rate of $\frac{1}{2}d.$ in the pound.

Position of Poor Law Authorities.

The obligation of the Local Authorities is still further limited by provisoes (ii.), (iii.), and (iv.) to section 30 of the Act. By proviso (ii.) to that section it is enacted that—

“(ii.) nothing in this Act shall affect the powers and duties
“of Poor Law Authorities under the Acts relating to the
“relief of the poor, with respect to any defectives who may
“be dealt with under those Acts ; nor the right of Poor Law
“Authorities to receive the same grant for a defective who
“has been, or may be, sent to an institution that they would
“have received if the Idiots Act, 1886, had not been repealed ;
“nor shall Local Authorities under this Act have any duties
“with respect to defectives who for the time being are being
“provided for by such authorities as aforesaid, except to
“such extent as may be prescribed by regulations made by
“the Secretary of State with the concurrence of the Local
“Government Board.”

It will, therefore, continue to be the duty of the Poor Law Authority to provide for mental defectives, as defined by the Act, who are chargeable to the Poor Law, in addition to those classes of mental defectives who do not come under the new Act, such as persons suffering from senile dementia ; and the Local Authorities will have no duties or responsibilities in regard to defectives who for the time

being are being provided for by the Poor Law Authorities except to the extent prescribed by the Regulations. Appendix II.

At the same time it may be expected that the Act will bring about a gradual reduction in the number of mental defectives for whom the Poor Law Authorities will be responsible. This reduction will be effected partly by the transfer of cases under the Regulations, partly by the voluntary discharge from Poor Law institutions of defectives who will subsequently obtain admission into the institutions of the Local Authorities, and partly by the Local Authority intercepting cases, especially cases of defective children, which would formerly have reached the Poor Law.

The effect of the Regulations, briefly stated, is that if a Poor Law Authority has reason to believe that relief is being afforded to a mental defective subject to be dealt with under the Act, who should for special reasons be provided for by the Local Authority, a report on the case may be made by the Poor Law Authority to the Local Government Board. The Local Government Board may, if they concur in the report, transmit it to the Board of Control, and the Board of Control, if satisfied that the Local Authority are able and willing to take the person under their control, may issue a certificate which will have the effect of taking the case out of the category of cases which for the time being are being provided for by the Poor Law Authority and placing it in the category of cases in respect of whom the Local Authority have a duty to perform.

The circumstances which may be deemed to constitute a special reason for the transfer under these regulations of Poor Law cases to the care of the Local Authorities are :—

(i.) that the alleged defective is under 21 years of age and is in need of proper control and training which cannot be provided in an institution belonging to the Poor Law Authority.

(ii.) that the alleged defective is a woman in receipt of Poor Law relief at the time of giving birth to an illegitimate child, or when pregnant of such child, or is a prostitute, or lodges or resides with prostitutes or otherwise lives in circumstances calculated to cause, encourage or favour her seduction or prostitution.

(iii.) that in his own interest the alleged defective requires care, protection and control which would not be available if he ceased to be provided for under the Poor Law and that he is likely to take his discharge from the Poor Law institution.

(iv.) that the alleged defective is a moral imbecile or has diseases, infirmities or habits which make his retention in a Poor Law institution undesirable and his detention in an institution for defectives desirable.

It will be observed that the initiative in the matter of the transfer of these cases from one Authority to the other rests with the Poor Law Authority. The Guardians should not hesitate to take the steps indicated when the circumstances show them to be expedient.

Regulations made by the Secretary of State with the concurrence of the Lord Chancellor, under proviso (iii.) to section 30 of the Act, provide that defectives remaining or detained in a Poor Law

Appendix II.

institution under sections 24 or 25 of the Lunacy Act, 1890, may, notwithstanding that they are for the time being, or might be, provided for by Local Authorities under the Lunacy Acts, be dealt with under the Mental Deficiency Act if the Board of Control issue a certificate to the Local Authority that it is expedient that they should be dealt with under that Act. The Local Government Board understand that it is contemplated that the actual procedure in these cases will be similar to that adopted under the regulations made under proviso (ii.) to section 30.

While the Mental Deficiency Act and the Regulations made thereunder thus preserve in the main the powers and duties of the Poor Law Authorities to provide under the Acts relating to the relief of the poor for defectives who for the time being are being dealt with under those Acts, the Act does not contemplate that the Poor Law Authorities should extend their operations to persons not in receipt of poor relief, and those Authorities can in no way release the County and County Borough Councils from their responsibilities under the Act, or take their place.

Co-operation between Poor Law Authorities and Local Authorities.

While the Poor Law Authorities and the Local Authorities under the Act will each have their respective spheres of operation, it is obvious that they will have close relations with one another, and it is important that they should work together in friendly co-operation with the object of preventing friction or the duplication of work.

One of the duties of the Local Authorities is to compile a register of defectives subject to be dealt with under the Act, and the Board feel sure that they can rely upon the Guardians to assist the Local Authorities by providing them with information as to the number, names and addresses of the defectives who are chargeable to the Union. The Local Government Board understand that the Board of Control propose to ask for the inclusion in the Quarterly Returns of Lunatics of information as to the defectives under the care of the Guardians.

The Board may add that they propose to ask the Guardians to include in their Half-Yearly Returns of Pauperism, commencing with the Return for the 1st July, 1914, statistics as to the number of defectives in receipt of relief.

It seems likely that in some instances Local Authorities may desire to appoint as Officers to assist them in the performance of their duties under the Act persons who are already holding appointments under the Guardians, such as District Medical Officers and Relieving Officers. The Board would be willing to consider proposals from the Guardians to enable their officers to undertake these duties.

Provision for defectives remaining under the care of Poor Law Authorities.

The Local Government Board recognize the desire of many Boards of Guardians to make proper provision for the mental defectives

who are and will remain under their care, and they think it will be Appen-
useful to the Guardians to set out the different ways in which this dix II.
can be effected.

It is only in comparatively rare cases that a Union contains a sufficient number of defectives to enable the Guardians acting alone to make proper and economical provision for the suitable training and care of this class. In arranging for the classification of inmates under Article 10 of the Poor Law Institutions Order, 1913, this is a consideration which should be borne in mind.

A considerable number of Boards of Guardians have recently applied to the Local Government Board for the issue of Orders under section 8 of the Poor Law Act, 1879, establishing Joint Committees for groups of Unions for the purpose of making proper provision for certain classes of chargeable poor, and in particular for feeble-minded persons and sane epileptics, and the Board have issued seven Orders for this purpose affecting 67 Unions. Provided that the number of persons of the classes in question, who are chargeable and likely to remain chargeable, is sufficient and that the Unions concerned form a convenient area, the Local Government Board and the Board of Control concur in the expediency of forming such Joint Committees.

With a view to avoiding duplication of work and unnecessary expenditure it is desirable that where it is proposed to form a combination the Poor Law Authorities concerned should confer with the Local Authorities under the Act before any definite scheme is propounded, and that the Joint Committees already constituted should consult with representatives of the Statutory Committee of the County or County Borough Council.

Agreements between Poor Law Authorities and Local Authorities.

In preparing their schemes for the administration of the Act within their area it will be open to the Local Authorities to apply to the Board of Control under Section 37 of the Act, for their approval of premises provided by Boards of Guardians, singly or in combination, with a view to their being used for the reception of defectives under agreement with the Local Authorities. County and County Borough Councils have already been advised in a Circular Letter from the Home Office that it will be useless to seek the authority of the Board of Control for the use of ordinary workhouse accommodation for the detention of defectives, and that applications will be favourably entertained only when the premises in question have been specially provided and properly equipped so as to meet satisfactorily all the requirements of the class or classes of defectives proposed to be received therein.

The powers given to a Local Authority by Section 30 (e) of the Act, under which that Authority may maintain or contribute towards the expenses of maintenance of defectives not included in the classes in respect of which their intervention is obligatory, would enable a Local Authority which thought such a course desirable to undertake

Appendix II.

the care of defectives chargeable to the Poor Law under agreement with the Guardians and upon reasonable terms of payment.

By this means it may be found practicable for the Poor Law Authorities to avail themselves of the institutions provided by the Local Authorities in their area. In any case the Board are confident that they may rely on the co-operation of the Guardians to secure that the provision made for the defectives who remain under their care will not fall below the standard required for the defectives who are dealt with under the Act, and at the same time to avoid any expenditure which the development of a carefully devised and comprehensive scheme might render unnecessary.

I am, Sir,

Your obedient Servant,

H. C. MONRO,
Secretary.

The Clerk to the Guardians.

or

The Clerk to the Joint Poor Law Committee.

PROVISIONAL REGULATIONS,

DATED 20TH MARCH, 1914, MADE BY THE SECRETARY OF STATE
WITH THE CONCURRENCE OF THE LOCAL GOVERNMENT BOARD
UNDER SECTION 30, PROVISIO (ii), OF THE ACT.

I hereby certify in pursuance of Section 2 of the Rules Publication Act, 1893, that on account of urgency the following Regulations should come into immediate operation, and in pursuance of the powers conferred on me by Section 30, proviso ii, of the Mental Deficiency Act, 1913, I hereby make the following Regulations to come into operation forthwith as Provisional Regulations :—

I. When a Poor Law Authority has reasonable cause to believe that a person receiving relief under the Acts relating to the relief of the poor is a defective subject to be dealt with under Section 2 (i) (b) of the Mental Deficiency Act, 1913, and that any of the following circumstances exist and that they constitute a special reason why the alleged defective should be dealt with under the said Act the Authority may report the case to the Local Government Board.

The circumstances which may be deemed to constitute a special reason may be

- (i) that the alleged defective is under 21 years of age and is in need of proper control and training which cannot be provided in an institution belonging to the Guardians :

- (ii) that the alleged defective is a woman in receipt of poor law relief at the time of giving birth to an illegitimate child or when pregnant of such child, or is a prostitute, or lodges or resides with prostitutes or otherwise lives in circumstances calculated to cause, encourage or favour her seduction or prostitution : Appen-
dix II.
Schedule.
FORM.
- (iii) that in his own interest the alleged defective requires care, protection and control which would not be available if he ceased to be provided for under the poor law, and that he is likely to take his discharge from the Institution :
- (iv) that the alleged defective is a moral imbecile or has diseases, infirmities or habits which make his retention in the workhouse undesirable and his detention in an institution for defectives desirable.

II. The Report referred to in the foregoing paragraph may be made in the Form of the Schedule annexed, or a Form to the like effect.

III. If the Board of Control is satisfied that the Local Authority is able and willing to provide supervision, guardianship, or accommodation in accordance with Section 30 of the Act for any alleged defective so reported to the Local Government Board, it may, if it thinks fit, issue a Certificate that such defective shall be excepted from the provision of the said Section which directs that local authorities under the Act shall not have any duties with respect to defectives who for the time being are provided for by poor law authorities.

IV. Such reports and certificates as are above referred to may be made and issued more than once in respect of the same defective, if occasion requires.

Dated the 20th day of March, 1914.

(Sd.) *R. McKenna*,
One of His Majesty's Principal
Secretaries of State.

The Local Government Board concur in the foregoing Provisional Regulations.

20th March, 1914.

(Sd.) *Herbert Samuel*,
President.

MENTAL DEFICIENCY ACT, 1913, SECTION 30, PROVISO (ii).

Schedule.

Form of Report.

Union of _____ in the County [Borough] of _____ .

1. The Guardians of the above-named Union hereby report to the Local Government Board that *A.B.*, who is in receipt of (outdoor) relief [in the

Appendix II.
Schedule.

FORM.

(a) at] is in their opinion a defective subject to be dealt with under Section 2 (i) (b) of the Mental Deficiency Act, 1913, being a person who is (b)—

- (a) found neglected,
 - (b) found abandoned,
 - (c) found without visible means of support,
 - (d) found cruelly treated,
 - (e) an habitual drunkard within the meaning of the Inebriates Acts, 1879–1900,
 - (f) a woman who has recently given birth to an illegitimate child, and was at the time of such birth in receipt of relief,
 - (g) pregnant of an illegitimate child and in receipt of relief,
- and that the following circumstances exist, and that they constitute a special reason why the said A.B. should be dealt with under the said Act, viz. : (c)—

- (i) that A.B., the alleged defective, is under 21 years of age and is in need of proper control and training which cannot be provided in an institution belonging to the Guardians :
- (ii) that A.B., the alleged defective, is a woman in receipt of poor law relief at the time of giving birth to an illegitimate child or when pregnant of such child, or is a prostitute or lodges or resides with prostitutes or otherwise lives in circumstances calculated to cause, encourage, or favour her seduction or prostitution :
- (iii) that A.B., the alleged defective, in his own interest requires care, protection, and control which would not be available if he ceased to be provided for under the poor law and that he is likely to take his discharge from the Institution :
- (iv) that A.B., the alleged defective, is a moral imbecile or has diseases, infirmities, or habits which make his retention in the workhouse undesirable and his detention in an institution for defectives desirable :

2. The Guardians further report that the said A.B. was (has not to their knowledge previously been) reported to the Local Government Board (on the day of , 19) with a view to his being dealt with under the said Act.

Dated the day of , 19 .

Clerk to the Guardians.

PROVISIONAL REGULATIONS.

DATED 20TH MARCH, 1914, MADE BY THE SECRETARY OF STATE WITH THE CONCURRENCE OF THE LORD CHANCELLOR, PURSUANT TO SECTION 30, PROVISO (iii), OF THE ABOVE ACT.

I hereby certify in pursuance of Section 2 of the Rules Publication Act, 1893, that on account of urgency the following Regulations should come into immediate operation, and in pursuance of the

- (a) Name the institution.
- (b) Strike out the headings which are not applicable.
- (c) Strike out the headings which are not applicable.

powers conferred on me by Section 30, proviso iii, of the Mental Appen-
 Deficiency Act, 1913, I hereby make the following Regulations to dix II.
 come into operation forthwith as Provisional Regulations :—

I.

The powers conferred and the obligations imposed on local authorities by Section 30 of the Mental Deficiency Act shall apply to defectives of the following classes, notwithstanding the fact that they are for the time being, or might be, provided for by local authorities under the Lunacy Acts, 1890 to 1911 :—

- (a) Defectives in an institution for lunatics or continuing on the books of an asylum pursuant to Section 26 (2) of the Lunacy Act, 1890, in respect of whom the Board of Control certify to the local authority that, having regard to the needs of the defectives in the matter of care, training and employment, it is expedient that they should be dealt with under the Mental Deficiency Act :
- (b) Defectives remaining or detained in a workhouse or in an asylum provided under the Metropolitan Poor Act, 1867, under the authority of a certificate of the Medical Officer or of an Order under the hand of a Justice, pursuant to Section 24 of the Lunacy Act, 1890, in respect of whom the Board of Control has issued such a certificate as is mentioned above :
- (c) Defectives discharged not recovered from an institution for lunatics and detained in a workhouse pursuant to Section 25 of the Lunacy Act, 1890, in respect of whom the Board of Control has issued such a certificate as is mentioned above :
- (d) Defectives who are not for the time being provided for by local authorities under the Lunacy Acts, 1890 to 1911, but who might be so provided for, if the Board of Control, on the application of the local authority under the Mental Deficiency Act, consents to their being dealt with under that Act.

II.

If any defective certified under paragraph (a) of No. 1 of these Regulations is sent to an institution for defectives or placed under guardianship, he shall, from the date of the order, cease to be a patient on the books of the asylum.

III.

A certificate given by the Board of Control under these Regulations shall be addressed to the local authority of the district where the defective resided before his removal to the institution for lunatics, workhouse or asylum provided under the Metropolitan Poor Act, 1867.

Appendix II.

IV.

Nothing in these Regulations shall relieve local authorities under the Lunacy Acts from the obligations imposed on them by Section 238 and Section 247 of the Lunacy Act, 1890.

V.

Nothing in these Regulations shall be deemed to remove or modify the powers conferred and the obligations imposed on Constables, Relieving Officers, Overseers, Medical Officers, Officers of Unions, Justices of the Peace, Medical Practitioners, Commissioners in Lunacy or other persons by Sections 13, 14, 15, 16, 17, 19, 20, 21, 22 and 23 of the Lunacy Act, 1890.

VI.

These Regulations may be cited as the Mental Deficiency Act (Lunatics) Provisional Rules, 1914.

Dated the 20th day
of March, 1914.

(Sd.) *R. McKenna*,
One of His Majesty's Principal
Secretaries of State.

I concur in the foregoing Provisional Regulations.

(Sd.) *Haldane*,
Lord Chancellor.

Dated the 20th day
of March, 1914.

LORD CHANCELLOR'S RULES.

SUMMARY PROCEEDINGS, ENGLAND.

THE SUMMARY JURISDICTION (MENTAL DEFICIENCY ACT), PROVISIONAL RULES, 1914, DATED MARCH 20TH, 1914.

I hereby certify in pursuance of Section 2 of the Rules Publication Act, 1893, that on account of urgency the following Rules should come into immediate operation, and in pursuance of the powers conferred on me by Section 29 of the Summary Jurisdiction Act, 1879, and Section 44 (5) of the Mental Deficiency Act, 1913, I hereby make the following Rules to come into operation forthwith as Provisional Rules :—

Procedure
to determine
place of
residence.

Rule 1.—Whenever a Court of Summary Jurisdiction has to determine the place of residence of a defective, it shall have the same powers as in the case of a complaint upon which an order can be made under the Summary Jurisdiction Acts, and the Summary Jurisdiction Acts shall apply to such proceedings accordingly.

Rule 2.—The Petty-Sessional Court to which a Council aggrieved by a decision as to the place of residence of any person, may apply for a transfer of the liability for the cost of the conveyance, reception and maintenance of such person shall, where the decision was given by a Judicial Authority or a Court of Summary Jurisdiction, be a Petty-Sessional Court acting in and for the place in which the decision was given, and in the case of an order made by the Secretary of State, shall be a Petty-Sessional Court having jurisdiction within the area of the aggrieved Council.

Rule 3.—No order determining the place of residence of a defective or for the transfer of liability shall be made unless a summons has been served at least five days before the hearing thereof upon the Council which by virtue of the Order will be responsible for the cost of the conveyance, reception and maintenance of the defective.

Rule 4.—The forms in Schedule A., or forms to the like effect, may be used with such variations as circumstances may require for the purposes of the Mental Deficiency Act, 1913.

Rule 5.—These Rules may be cited as the Summary Jurisdiction (Mental Deficiency Act) Provisional Rules, 1914.

Dated the 20th day of March, 1914.

(Sd.) *Haldane,*
Lord Chancellor.

FORMS.

SCHEDULE A.

I.

Mental Deficiency Act, 1913, Section 44 (1).

APPLICATION FOR ORDER DETERMINING PLACE OF RESIDENCE.

COMPLAINT.

In the County of Petty-Sessional Division of , the
day of One thousand nine hundred and .
The complaint of *A.B.* (here set forth status of *A.B.*) who states
that on the day of One thousand nine hundred and
an order was made at the (Assizes) (Quarter Sessions) holden for
() (ordering *C.D.*, a defective, to be sent to the Certified Institution
at) (appointing *E.F.* to be the Guardian of *C.D.*, a defective)
and specifying the County (Borough) of as the place of residence of
the said *C.D.*, and who claims that the County (Borough) of should
be determined to be the place of residence of the said *C.D.*

Made before me Justice of the Peace for the (County) of
this day of 19 .

(L.S.)

II.

Mental Deficiency Act, 1913, Section 44 (1).

ORDER ON APPLICATION FOR DETERMINATION OF PLACE OF RESIDENCE.

In the County of Petty-Sessional Division of
Before the Court of Summary Jurisdiction sitting at .

CIRCULAR TO LOCAL EDUCATION AUTHORITIES.

Board of Education,
Whitehall, London, S.W.,
30th March, 1914.

MEMORANDUM RELATING TO REGULATIONS UNDER SECTION 2 (2) OF
THE MENTAL DEFICIENCY ACT, 1913, (a) AND MODEL ARRANGE-
MENTS UNDER SECTION 1 (1) OF THE ELEMENTARY EDUCATION
(DEFECTIVE AND EPILEPTIC CHILDREN) ACT, 1899, AND SECTION
31 (1) OF THE MENTAL DEFICIENCY ACT, 1913.

SIR,

1. I am directed to enclose for the information of the Local Education Authority copies of the *Provisional Regulations* made by the Board of Education under Section 2 (2) of the Mental Deficiency Act, 1913, and of the *Model Arrangements* which have been framed by the Board for the guidance of Local Education Authorities in carrying out the duties imposed upon them by Section 31 (1) of that Act. The Regulations and Arrangements have been drawn up by the Board in consultation with the Board of Control constituted as the Central Authority under the Act, who are in general agreement with the provisions of both documents and of this circular.

2. Section 31 (1) of the Mental Deficiency Act lays upon Local Education Authorities the duty of making arrangements, subject to the approval of the Board of Education, for ascertaining what children within their area are defective within the meaning of the Act, and which of such children are incapable by reason of mental defect of profiting by instruction in Special Schools, and for notifying to the Local Authority under the Act, referred to hereafter as the Local Control Authority, all children who fall within certain specified classes as defined by Section 2 (2) of the Act. The duty of notifying certain defective children to the Local Control Authority is also imposed by Section 2 (2) of the Act, which requires that such notification shall be in accordance with Regulations made by the Board of Education. Consequently the Regulations refer to notification only, while the Model Arrangements refer both to ascertainment and to notification. Moreover, under Section 68 of the Act the Regulations have effect as if enacted in the Act, and are consequently binding upon all Local Education Authorities, while the Model Arrangements are intended for the guidance of Authorities, though it will be clear that nothing in that part of the Arrangements which refers to the notification of children to the Local Control Authority

(a) The relevant portions of this Act are quoted on page 4 of this Circular.

Appen-
dix II.

must be inconsistent with the Regulations made by the Board under Section 2 (2) of the Act.

3. As regards Articles 2 and 3 of the Regulations and Sections 6 and 10 of the Model Arrangements, I am to explain that the Board of Education are of opinion that, speaking generally, children who are rightly classified as idiots or imbeciles are ineducable, while children rightly classified as feeble-minded are educable to a greater or less degree. They recognize that there may be occasional cases of low grade feeble-minded children who, though not idiots or imbeciles, are practically incapable of profiting by instruction in a Special School, and that such cases may properly be notified to the Local Control Authority; but they consider that such children should first be given an adequate trial under suitable educational conditions in a Special School, preferably a Residential School, in order that it may be ascertained by actual experience whether they are in fact incapable of profiting by instruction in such a School.

The procedure contemplated in these cases, and also in those referred to in the second paragraph of Article 4 and in Article 8 of the Regulations, is that a copy of the report of the Certifying Officer should be sent to the Board, and that the case should not be notified to the Local Control Authority until a reply is received from the Board. The Board will consider the report of the Certifying Officer, and unless its contents give some *primâ facie* reason for thinking that the classification of the child is erroneous they will as soon as possible inform the Local Education Authority that they have no observations to offer in regard to the proposed notification of the case to the Local Control Authority. Where, however, it appears to the Board to be possible that the child has been incorrectly classified they may ask for further information and, if they think proper, require the matter to be formally submitted to them for determination.

It will be observed that the obligation on the Authority to forward the report to the Board before notifying the name to the Local Control Authority arises only in certain exceptional cases, and the Board anticipate that the number of such cases will be found in practice to be comparatively small. For example the great majority of children who are notified to the Local Control Authority under Article 2 of the Regulations will be children who have been reported to be idiots or imbeciles, and it is only in exceptional cases that it will be proposed to notify under that Article children who have not been so reported. The Board have no desire to interfere unduly with the discretion of Local Education Authorities in this matter, but with a view to securing a reasonable standard of uniformity among Authorities they have thought it expedient to obtain information as to all cases falling within certain exceptional classes before they are notified to the Local Control Authority.

4. With regard to Article 4 of the Regulations and Section 7 of the Model Arrangements, the Board consider it important that, as a general rule, no educable feeble-minded child should be notified to the Local Control Authority as incapable of being instructed in a Special School without detriment to the interests of the other

children, unless it has been clearly shown by actual observation in a Special School for an adequate length of time that the presence of the child is a source of serious moral danger to the other children. The Board would not, for example, regard as falling within this class children who, by reason of the severe character of their mental defect, interfere to some extent with the educational progress of the other children, as they take the view that any difficulties arising from the presence of such children in the School should be met by improved classification and increased individual attention. Nor would the Board, unless the circumstances were exceptional, regard as falling within this class educable feeble-minded children who are objectionable on account of uncleanly habits, as experience has shown that children of this type can frequently be trained by individual care and attention in a Special School to such an extent that their presence ceases to be objectionable. In certain circumstances such training may be more successfully carried out when the child is in attendance at a Residential School.

The Board are, in fact, of opinion that children who are incapable of being instructed in a Special School without detriment to the interests of the other children are in practice found, in nearly all cases, to be moral imbeciles as defined by Section 1 (*d*) of the Mental Deficiency Act, and, further, that there are very few, if any, children who are moral imbeciles within the meaning of that definition who could be instructed in a Special School without detriment to the interests of the other children. In this connection I am to point out that the term "moral imbecile" cannot be applied to children who possess comparatively slight criminal tendencies, such as a tendency to petty pilfering, since, under Section 1 (*d*) of the Act, a "moral imbecile" is a person who, from an early age, displays some permanent mental defect coupled with strong vicious or criminal propensities on which punishment has had little or no deterrent effect.

5. The provisions of Article 5 of the Regulations and Section 11 of the Model Arrangements enable a Local Education Authority with the approval of the Board of Education, to bring to the notice of the Local Control Authority cases of educable feeble-minded children who, in their opinion, should be placed under supervision or guardianship owing to unfavourable home conditions or for some similar reason. In order, however, that the education of such children may be continued, it is very desirable that arrangements should be made for the children to continue in attendance at a Day Special School, and thus to remain under the control of the Local Education Authority as regards their education, while they would be within the sphere of the Local Control Authority as regards their supervision or guardianship out of school hours.

6. With reference to Article 6 of the Regulations and Section 12 of the Model Arrangements, it may be pointed out that under Section 11 of the Elementary Education (Defective and Epileptic Children) Act, 1899, the parents of mentally defective children are under an obligation (where a Special School is available) to cause them to attend school until the age of sixteen. Consequently the necessity of notifying a child to the Local Control Authority under Article 6 of

Appendix II.
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the Regulations will, as a rule, arise only in the case of children who have attained, or will shortly attain, the age of sixteen, and in whose case the Local Education Authority are of opinion that it would be to their benefit that they should be sent to an institution or placed under guardianship.

7. With regard to Article 8 of the Regulations and Section 14 of the Model Arrangements, I am to explain that these provisions have been included in view of the possibility that a child may be certified as ineducable whose apparent ineducability is due to its blindness or deafness and who would be found to be educable if trained by suitable methods in a School for blind or deaf children. In view of the risk of incorrect certification where the Certifying Officer has not had special experience in dealing with children who are blind or deaf, it is important that any such cases should be investigated with special care, and that, where necessary, an expert medical opinion should be obtained.

8. The Board of Education understand that the Board of Control consider it important that the Local Control Authority should be in possession of as complete and accurate information as possible with regard to cases of mental deficiency in their area. It would be convenient, therefore, if Local Education Authorities, in addition to notifying such cases as fall within the scope of the Regulations, would furnish the Local Control Authority with information as to other children in their area, whether over or under seven years of age, who are, or appear to be, mentally defective within the meaning of the Mental Deficiency Act, 1913. Such information would be supplied mainly for statistical purposes and it would, of course, be necessary that reports thus furnished should be clearly distinguished from formal notifications under Section 2 (2) of the Act. In this connection reference may be made to Table III. of Appendix J. of the Annual Report for 1912 of the Board's Chief Medical Officer, which suggests a form in which School Medical Officers may present a numerical return of all exceptional children in their area, including mentally defective children.

9. In the Appendix to the Model Arrangements the Authority will find the forms of certificate and report referred to in the Regulations and in the Arrangements. It will be understood that, with a view to securing the necessary uniformity, all certificates should be given in the form there prescribed. Copies of all the schedules will be supplied by the Board for the use of Authorities on application.

With regard to Schedule F., it will be observed that the suggested Form of Report is substantially the same as the schedule printed in Appendix E. of the Annual Report for 1911 of the Board's Chief Medical Officer. The Board realize that much remains doubtful and unknown in respect of feeble-mindedness, but it has been deemed advisable to suggest, tentatively, a form for recording the results of inquiry which has been found to be of practical value. It is obvious that the filling up of this Schedule will involve some care and trouble to the Certifying Officer, but it should be borne in mind that in the interests of the child a detailed and careful examination should be made, and a complete record of such examination is essential. Such a record will be particularly desirable in the case of those children

whom it is proposed to notify to the Local Control Authority, as the report will furnish a basis for the "dossier" which will be kept by that Authority for each child brought to their notice. A detailed record of the examination will also be required for those cases which are referred to the Board under the Regulations. Appen-
dix II.

It may be added that Schedule F. was arrived at after careful consideration and with the assistance of expert advice and the Board trust that it will be found to supply useful guidance to Medical Officers who are entrusted with the duty of carrying out these examinations of defective children, especially those who have not hitherto had special experience in such work, and that certifying officers generally will co-operate in securing that the examinations and the records of them should be as complete and detailed as possible. Whilst it would have been possible to issue a shorter form with added notes, it was considered that on the whole the form here adopted would prove in the long run the most convenient. It will, of course, be understood that the various items of the Schedule are not of equal diagnostic value or importance, and that many feeble-minded children do not manifest all the signs and symptoms at present believed to be characteristic of the disease or even all those most commonly found.

10. While the responsibility for deciding in which category a child should be placed must rest with the Certifying Medical Officer, it is desirable that he should take advantage as far as possible of the knowledge and experience possessed by the teachers, whether in Special Schools or in the ordinary Elementary Schools. When a child already in attendance at a Special School or Public Elementary School is to be examined, the opinion of the Head Teacher of the School will clearly be of value in determining the degree of mental defect, while even in the case of children who have not hitherto attended any school the Certifying Officer may find it advantageous to associate with himself in the work of examination a teacher who has had special experience in dealing with mentally defective children.

11. The Board also wish to direct the attention of Local Education Authorities to the desirability of close co-operation with the parents of mentally defective children in all matters relating to the education of their children or their notification to the Local Control Authority. In the opinion of the Board it is important that parents should be given ample opportunities of making representations in regard to these matters, and that every endeavour should be made to meet the legitimate views of parents as to the course which is most consistent with the welfare of their children, and to keep them informed of their progress. It may be anticipated that the information furnished by the parents will often prove of value in enabling an accurate diagnosis of the case to be made.

12. As the Mental Deficiency Act comes into operation on the 1st April, 1914, it is desirable that Local Education Authorities should at once proceed to frame arrangements for carrying out their duties under Section 31 (1) of the Act, and I am accordingly to request that the Authority will inform the Board at an early date

Appendix II.

whether they propose to adopt the Model Arrangements drawn up by the Board.

I am, Sir,

Your obedient Servant,

L. A. SELBY-BIGGE.

To the

Local Education Authority.

The Sections of the Mental Deficiency Act, 1913, which directly concern Local Education Authorities are as follows:—

Section 1.

Section 2 (2).

Section 30.

Section 31 (1), (2).

BOARD OF EDUCATION.

MENTAL DEFICIENCY (NOTIFICATION OF CHILDREN) REGULATIONS, 1914.*

(PROVISIONAL REGULATIONS UNDER SECTION 2 (2) OF THE MENTAL DEFICIENCY ACT, 1913.)

The Board of Education, by virtue and in pursuance of the powers in them vested under the Mental Deficiency Act, 1913, and of every other power enabling them in this behalf, do order, and it is hereby ordered, that the following Regulations be observed:—

1. The School Medical Officer of the Local Education Authority and such other duly qualified medical practitioners approved by the Board of Education under the Elementary Education (Defective and Epileptic Children) Act, 1899, as the Local Education Authority may nominate for that purpose, hereinafter called Certifying Officers, shall be the Medical Officers for the purpose of these Regulations.

(a) 2. If the Certifying Officer certifies that a child of the age of seven years or upwards is incapable, by reason of mental defect, of receiving benefit from instruction in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, the Local Education Authority shall notify the name and address of the child to the Local Authority under the Mental Deficiency Act, 1913, and shall furnish that Authority with a copy of the certificate of the Certifying Officer, which shall be in the prescribed form, and of his report on the child.

In any case where it is proposed to notify under this Article of these Regulations the name and address of a child who is not an idiot or an imbecile, the Local Education Authority shall, if required

* These regulations have been confirmed and amplified by further regulations dated June 26th, 1914, which were only available at the end of January, 1915, when the work had been printed off. These further regulations have, however, been included in this volume at p. 896, *post*.

(a) See memorandum relating to the construction of these regulations in the circular of the Board of Education, 30th March, 1914, *ante*.

by the Board of Education, before notifying the name of the child refer to the Board of Education for determination the question whether the name should be notified. Appendix II.

(a) 3. If the Certifying Officer certifies that a child of the age of seven years or upwards who is, or has been, in attendance at a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, is incapable of receiving further benefit from instruction in such a school or class, the Local Education Authority shall notify the name and address of the child to the Local Authority under the Mental Deficiency Act, 1913, and shall furnish that Authority with a copy of the certificate of the Certifying Officer, which shall be in the prescribed form, and of his report on the child.

In any case where it is proposed to notify under this Article of these Regulations the name and address of a child who is not an idiot or an imbecile, the Local Education Authority shall, if required by the Board of Education, before notifying the name of the child refer to the Board of Education for determination the question whether the name should be notified.

(a) 4. If the Certifying Officer certifies that a child of the age of seven years or upwards cannot be instructed in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, without detriment to the interests of the other children, the Local Education Authority shall notify the name and address of the child to the Local Authority under the Mental Deficiency Act, 1913, and shall furnish that Authority with a copy of the certificate of the Certifying Officer, which shall be in the prescribed form, and of his report on the child.

(a) In any case where it is proposed to notify under this article of these Regulations the name and address of a child who is not a moral imbecile, the Local Education Authority shall, if required by the Board of Education, before notifying the name of the child refer to the Board of Education for determination the question whether the name should be notified.

(a) 5. If the Local Education Authority are satisfied upon any representation made to them or otherwise that it is desirable that a mentally defective child of the age of seven years or upwards who is certified to be capable of receiving benefit from instruction in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, should be dealt with by way of supervision or guardianship under the Mental Deficiency Act, 1913, they shall notify the case to the Board of Education, together with such particulars as the Board of Education may require, and if the Board certify that there are special circumstances which render it desirable that the child should be dealt with under the Mental Deficiency Act, 1913, by way of supervision or guardianship, the Local Education Authority shall notify the name and address of the child to the Local Authority under the Mental Deficiency Act, 1913.

(a) 6. The Local Education Authority shall notify to the Local

(a) See memorandum relating to the construction of these regulations in the circular of the Board of Education, 30th March, 1914, *ante*.

Appen-
dix II.

Authority under the Mental Deficiency Act, 1913, the name and address of any mentally defective child who, on or before attaining the age of sixteen, is about to be withdrawn or discharged from a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, and in whose case the Local Education Authority are of opinion that it would be to his benefit that he should be sent to an institution or placed under guardianship under the Mental Deficiency Act, 1913.

7. If in any case falling under Article 2, 3 or 4 of these Regulations, the Local Education Authority, notwithstanding the certificate of the Certifying Officer, are of opinion after due enquiry that the name of the child should not be notified to the Local Authority under the Mental Deficiency Act, 1913, they may refer to the Board of Education for determination the question whether the name should be notified. Similarly, if after due enquiry the Local Education Authority desire to notify to the Local Authority under the Mental Deficiency Act, 1913, the name of a child who has not been certified by the Certifying Officer under Article 2, 3 or 4 of these Regulations, and does not come within the scope of Article 5 or 6 of the Regulations, they may refer to the Board of Education for determination the question whether the name should be notified.

(a) 8. In any case where a Local Education Authority propose to notify to the Local Authority under the Mental Deficiency Act, 1913, the name and address of a child who is blind or deaf within the meaning of Section 15 (1) of the Elementary Education (Blind and Deaf Children) Act, 1893, the Local Education Authority shall, if required by the Board of Education, before notifying the name of the child refer to the Board of Education for determination the question whether the name should be notified.

9.—(1) These provisional Regulations may be cited as the Mental Deficiency (Notification of Children) Regulations, 1914.

(2) The Board of Education hereby certify that on account of urgency these Regulations should come into operation as from the 1st day of April, 1914, and they shall accordingly come into operation on that date as provisional Regulations.

Given under the Seal of the Board of Education the 24th day of March, 1914.

L. A. SELBY-BIGGE.



(a) See memorandum relating to the construction of these regulations in the circular of the Board of Education, 30th March, 1914, *ante*.

BOARD OF EDUCATION.

MODEL ARRANGEMENTS

UNDER SECTION 1 (1) OF THE ELEMENTARY EDUCATION (DEFECTIVE AND EPILEPTIC CHILDREN) ACT, 1899, AND SECTION 31 (1) OF THE MENTAL DEFICIENCY ACT, 1913.

1. The School Medical Officer of the Local Education Authority and such other duly qualified medical practitioners approved by the Board of Education under the Elementary Education (Defective and Epileptic Children) Act, 1899, as the Local Education Authority may approve for that purpose, hereinafter called Certifying Officers, shall be the Medical Officers for the purpose of the Elementary Education (Defective and Epileptic Children) Act, 1899, and of the Regulations made by the Board of Education under the Mental Deficiency Act, 1913, and for the purpose of these Arrangements.

2. The Head Teacher of every Public Elementary School shall bring to the notice of the Local Education Authority any children attending the School who appear, by reason of mental defect, to be incapable of receiving proper benefit from the instruction in an ordinary Public Elementary School, and the Medical Officers of the Authority shall report to the Authority the names and addresses of all children discovered by them in the course of their work in connection with the School Medical Service to be defective within the meaning of the Mental Deficiency Act, 1913.

3. The Officers of the Local Education Authority who are charged with the duty of enforcing the law of school attendance shall report to the Local Education Authority the names and addresses of all children not in attendance at school who appear, or are reputed to be, defective within the meaning of the Mental Deficiency Act, 1913.

4. The Local Education Authority will make arrangements for the examination by a Certifying Officer appointed for the purpose of these Arrangements of any child whose name has been so reported, and will also make arrangements for enabling any parent who is of opinion that his child ought to be dealt with under the Elementary Education (Defective and Epileptic Children) Act, 1899, to present such child to a Certifying Officer for examination. The child shall be examined within three months of his attaining the age of seven years, and at such other times as appear to the Local Education Authority to be desirable.

5. The Certifying Officer, after he has examined the child, shall furnish the Local Education Authority with a certificate in one of the forms prescribed in the schedules to these Arrangements, and with a full report on the child on the lines suggested in Schedule F.

(a) 6. If the Certifying Officer certifies that a child of the age of

(a) See memorandum as to the construction of these regulations in the circular of the Board of Education, 30th March, 1914, *ante*.

Appendix II.

seven years or upwards is incapable, (a) by reason of mental defect, of receiving benefit from instruction in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, the Local Education Authority will notify the name and address of the child to the Local Authority under the Mental Deficiency Act, 1913, and will furnish that Authority with a copy of the certificate of the Certifying Officer, which shall be in the form prescribed in Schedule C. of these Arrangements, and with a copy of his report on the child.

In any case where it is proposed to notify under this Article of these Arrangements the name and address of a child who is not certified to be an idiot or an imbecile, the Local Education Authority will furnish the Board of Education with a copy of the report of the Certifying Officer on the child, and will, if required by the Board of Education, refer to the Board for determination under Section 31 of the Mental Deficiency Act, 1913, the question whether the name and address of the child should be so notified.

(b) 7. If the Certifying Officer certifies that a child of the age of seven years or upwards cannot be instructed in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, without detriment to the interests of the other children, the Local Education Authority will notify the name and address of the child to the Local Authority under the Mental Deficiency Act, 1913, and will furnish that Authority with a copy of the certificate of the Certifying Officer, which shall be in the form prescribed in Schedule E. of these Arrangements, and with a copy of his report on the child.

In any case where it is proposed to notify under this Article of these Arrangements the name and address of a child who is not a moral imbecile, but for other reasons cannot be instructed in a special school or class without detriment to the interests of the other children, the Local Education Authority will furnish the Board of Education with a copy of the report of the Certifying Officer on the child, and will, if required, by the Board of Education, refer to the Board for determination under Section 31 of the Mental Deficiency Act, 1913, the question whether the retention of the child in a special school or class would be detrimental to the interests of the other children.

8. The Local Education Authority will arrange for the examination from time to time by a Certifying Officer appointed for the purpose of these Arrangements of all mentally defective children who are being educated in special schools or classes maintained by them under the Elementary Education (Defective and Epileptic Children) Act, 1899, with a view to ascertaining in each case (1) whether the child can be discharged from the special school or class on the ground that

(a) Under the Elementary Education (Defective and Epileptic Children) Act, 1899, idiots and imbeciles are excluded from special schools and classes certified for the purpose of that Act.

(b) See memorandum as to the construction of these regulations in the circular of the Board of Education, 30th March, 1914, *ante*.

he has attained such a mental condition as to be fit to attend the ordinary classes of Public Elementary Schools, (2) whether he is incapable of receiving further benefit from instruction in a special school or class, or (3) whether he cannot be instructed in a special school or class without detriment to the interests of the other children. Such examination shall be made at intervals of not more than twelve months, provided that if a parent of any child claims that his child shall be examined and the child has not been examined within six months before the date of such claim a special examination of the child shall be made on the request of the parent. Appendix II.

9. The Local Education Authority will also make provision for ascertaining in the case of any mentally defective child sent by them to a special school or class not maintained by a Local Education Authority, or to a special school or class maintained by another Local Education Authority, (1) whether the child can be discharged from the special school or class on the ground that he has attained such a mental condition as to be fit to attend the ordinary classes of Public Elementary Schools, (2) whether he is incapable of receiving further benefit from instruction in a special school or class, or (3) whether he cannot be instructed in a special school or class without detriment to the interests of the other children. For this purpose the Local Education Authority sending the child will arrange for reports on the child to be forwarded to them at intervals of not more than twelve months. These reports shall be made by a Certifying Officer and for this purpose the Local Education Authority may approve the Medical Officer of the school or class at which the children are being educated as Certifying Officer in respect of those children.

(a) 10. If the Certifying Officer certifies that a child of the age of seven years or upwards is incapable of receiving further benefit from instruction in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, the Local Education Authority will notify the name and address of the child to the Local Authority under the Mental Deficiency Act, 1913, and will furnish that Authority with a copy of the certificate of the Certifying Officer, which shall be in the form prescribed in Schedule D. of these Arrangements, and with a copy of his report on the child.

In any case where it is proposed to notify under this Article of these Arrangements the name and address of a child who is not certified to be an idiot or an imbecile, the Local Education Authority will furnish the Board of Education with a copy of the report of the Certifying Officer on the child, and will, if required by the Board of Education, refer to the Board for determination under Section 31 of the Mental Deficiency Act, 1913, the question whether the name and address of the child should be so notified.

(a) 11. If the Local Education Authority are satisfied upon any representation made to them or otherwise that it is desirable that a mentally defective child of the age of seven years or upwards who is

(a) See memorandum as to the construction of these regulations in the circular of the Board of Education, 30th March, 1914, *ante*.

Appen-
dix II.

certified to be capable of receiving benefit from instruction in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, should be dealt with by way of supervision or guardianship under the Mental Deficiency Act, 1913, they will notify the case to the Board of Education, together with such particulars as the Board of Education may require, and if the Board certify that there are special circumstances which render it desirable that the child should be dealt with under the Mental Deficiency Act, 1913, by way of supervision or guardianship, the Local Education Authority will notify the name and address of the child to the Local Authority under the Mental Deficiency Act, 1913.

(a) 12. The Local Education Authority will notify to the Local Authority under the Mental Deficiency Act, 1913, the name and address of any mentally defective child, who, on or before attaining the age of sixteen, is about to be withdrawn or discharged from a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, and in whose case the Local Education Authority are of opinion that it would be to his benefit that he should be sent to an institution or placed under guardianship under the Mental Deficiency Act, 1913.

13. If in any case falling under Section 6, 7 or 10 of these Arrangements, the Local Education Authority, notwithstanding the certificate of the Certifying Officer, are of opinion that the name of the child should not be notified to the Local Authority under the Mental Deficiency Act, 1913, they may refer to the Board of Education for determination the question whether the name should be notified. Similarly, if the Local Education Authority desire to notify to the Local Authority under the Mental Deficiency Act, 1913, the name of a child who has not been certified by the Certifying Officer under Section 6, 7 or 10 of these Arrangements, and does not come within the scope of Section 11 or 12 of the Arrangements, they may refer to the Board of Education for determination the question whether the name should be notified.

(a) 14. In any case where a Local Education Authority propose to notify to the Local Authority under the Mental Deficiency Act, 1913, the name and address of a child who is blind or deaf within the meaning of Section 15 (1) of the Elementary Education (Blind and Deaf Children) Act, 1893, the Local Education Authority will furnish the Board of Education with a copy of the report of the Certifying Officer on the child, and, in the case of a child already in attendance at a special school for blind or deaf children, with a report by the Head Teacher of the school on the child's progress while in the school, and will, if required by the Board of Education, refer to the Board for determination under Section 31 of the Mental Deficiency Act, 1913, the question whether the name and address of the child should be notified under that section.

(a) See memorandum as to the construction of these regulations in the circular of the Board of Education, 30th March, 1914, *ante*.

APPENDIX.

Appendix II.

Schedules.

SCHEDULE A.

School (if any) :

Local Education Authority :

Name of Child (in full) :

Date of Birth :

I certify that this child is not incapable, by reason of mental defect, of receiving benefit from the instruction in an ordinary Public Elementary School.

SCHEDULE B.

School (if any) :

Local Education Authority :

Name of Child (in full) :

Date of Birth :

I certify that this child, not being merely dull or backward and not being an idiot, an imbecile, or a moral imbecile, is feeble-minded within the meaning of the Mental Deficiency Act, 1913, but is not incapable by reason of mental defect of receiving benefit from instruction in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899.

SCHEDULE C.

School (if any) :

Local Education Authority :

Name of Child (in full) :

Date of Birth :

I certify that this child is incapable, by reason of mental defect, of receiving benefit from instruction in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899.

NOTE.—Under the Elementary Education (Defective and Epileptic Children) Act, 1899, idiots and imbeciles are excluded from special schools and classes certified under that Act.

SCHEDULE D.

School (if any) :

Local Education Authority :

Name of Child (in full) :

Date of Birth :

I certify that this child is incapable, by reason of mental defect, of receiving further benefit from instruction in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899.

SCHEDULE E.

School (if any) :

Local Education Authority :

Name of Child (in full) :

Date of Birth :

I certify that this child cannot be instructed in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, without detriment to the interests of the other children.

Appendix II.

SCHEDULE F.

Schedules. [As to this schedule, see circular of the Board of Education, 30th March, 1914, par. 9, *ante*.]

SUGGESTED FORM OF REPORT ON CHILD EXAMINED FOR MENTAL DEFICIENCY.

I. Name of Child (in full)

Address

Date of Birth

School (if any)

Local Education Authority

II. Particulars of Home Conditions, Environment, School Attendance, and other Factors

III. Family History (in regard to history of mental defect, epilepsy, alcoholism, &c.)

IV. Personal History :—

(a) *Constitutional Defects, Injury at Birth, Malnutrition, Rickets, Congenital Syphilis, &c.*

(b) *Diseases of Childhood*

(c) *Commencement of Teething*

(d) *Walking*

(e) *Speech*

V. Physical Conditions :—

(a) *General (results of routine medical inspection)*

(b) *Special :—*

(1) *Speech : Defective articulation*

(2) *Sight : Blindness, total or partial, errors of refraction*

(3) *Hearing : Deaf-mutism, partial deafness, partial mutism*

(4) *Nose and throat : Enlarged tonsils, adenoids, mouth breathing*

(5) *Control of spinal reflexes and of salivation*

(c) *Stigmata :—*

(1) *General retardation—Cretinoid development*

(2) *Cranium—Microcephaly, hydrocephaly, asymmetry, rickets, imperfect closure of fontanelles, simple head measurement*

(3) *Hair—Double and treble vortices, wiry or supple*

(4) *Face—Irregularity of features*

(5) *Lower jaw—Protruding or receding*

(6) *Eyes—Mongoloid, presence of epicanthic fold*

(7) *Ears—Size, setting, conformation, lateral symmetry, size of lobes, attachment of lobe to the cheek, supernumerary lobules*

(8) *Tongue—Enlarged, furrowed, papillæ enlarged*

(9) *Teeth—Irregular, absent, enlarged incisors*

(10) *Palate—Arched, narrow*

(11) *Fingers—Webbed, clubbed, defective in number or shape, supernumerary digits*

(12) *Limbs—Excessive length of upper limbs*

VI. *Mental Conditions* :—

[N.B.—In assessing mental conditions, the tests designed by Binet and Simon are recommended.]

Appendix II.
Schedules.

(a) *Reactions of Motor Mechanism* :—

- (1) *Formation of Motor Ideas.* (*Execution of simple movements from imitation*)
- (2) *Storage of Motor Ideas.* (*Execution of simple familiar command by word of mouth*)
- (3) *Power of control, initiative, purpose, and concentration.* *Success of motor output.* (*Execution of familiar complex movement*)
- (4) *Motor Incompetence.* *Attitude in standing-position of head, spine, knees. Gait. Position of arms, hands, fingers, in horizontal extension. General balance*
- (5) *Motor Instability.* (*Habits.*) *Rocking of body, rubbing hands, spitting, biting nails, or licking lips*
- (6) *Motor Disturbance.* *Tremors (face, hand, tongue), Chorea, Epilepsy, Aphasia, Hemiplegia*

(b) *Reactions resulting from Sensory Stimulation* :—

- (1) *Attention*—colour, shape, size, smell
- (2) *Formation of Memory Images* :
 - (a) *Recognition* ; objects, sounds
 - (b) *Recollection*
- (3) *Association of Ideas*
- (4) *Judgment* (*for example—length, size, distance*)
- (5) *Relationship* (*similarity, contrast, symbolism*)
- (6) *General concepts* (*possession, self-protection, purpose, concentration, initiative*)

(c) *Emotional Conditions* :—

Interest, excitement, aggression, co-operation, affection, &c. (positive or negative phases)

(d) *Tests of Intelligence* :—

- (1) *Description of pictures, models, objects, familiar events*
- (2) *Letters, words, reading* (*word blindness*)
- (3) *Counting, manipulation of simple numbers, simple money values*
- (4) *Writing*
- (5) *Manual Tests*

(e) *Will Power as tested under the above headings*

(f) *Moral characteristics not recorded in (a)–(e)*

VII. *Diagnosis* :—

- (a) *Physically defective*—stating defect
- (b) *Blind or partially blind*
- (c) *Deaf-mute or semi-mute or semi-deaf*
- (d) *Epileptic*
- (e) *Merely dull or backward*
- (f) *Mentally defective* (*feeble-minded*)
- (g) *Imbecile*
- (h) *Moral Imbecile*
- (i) *Idiot*

[In this group the symbols “a” to “i” are intended to be correlated when necessary.]

Appen-
dix II.
Schedules.

VIII. Treatment recommended :—

(With any necessary notes as to after-care, custody, and the degree and character of manual training and ordinary school teaching likely to be advisable.)

(1) An ordinary public elementary school

(With or without particular supervision or modification of curriculum.)

(2) A special class for dull or backward children

(3) A Special school (state whether day or residential is recommended)

(4) Unsuitable for a Special school :—

Signature of the Medical Officer

Date

CIRCULAR TO COUNTY AND COUNTY BOROUGH COUNCILS.

Home Office,
Whitehall, S.W.
22nd December, 1913.

SIR,

I am directed by the Secretary of State to transmit to you herewith a copy of the Mental Deficiency Act, 1913, which comes into operation on the 1st April next, and I am to request that you will call the attention of your Council to the important powers and duties which they will be called upon to exercise as Local Authority under the Act.

The object of the Act is to make better provision for the protection and control of a large number of mentally defective persons who are not and cannot be satisfactorily dealt with under the powers heretofore available. Definitions of the several classes of mentally defective persons which were framed carefully by Parliament on the basis of suggestions made by the Royal College of Physicians will be found in Section 1 : but it is to be observed that persons who are defectives cannot be dealt with under the Act except at the instance of a parent or guardian, unless they come within one of the categories set out in Section 2 (1) (b). The methods of dealing with such persons under the Act are twofold :—first, the voluntary action of their parents or guardians (Section 3), and, alternatively, the action of local authorities, of Courts of Criminal Jurisdiction, or of the Secretary of State (Sections 5, 8, 9).

The general scheme of the Act is based on the three principles :
(i.) that local authorities should be empowered to assist financially and otherwise the efforts of parents or guardians to secure proper care and control for defectives for whom the latter are responsible :

(ii.) that local authorities should be under an obligation, subject to their receiving due financial assistance from the State, to provide the necessary care and control (a) for defectives who are neglected or ill-used or who have fallen into crime, drunkenness, etc., (b) for defective children who are ineducable or who, having been educated at special schools, are on leaving these schools, unfit to be left without care and control; and (iii.) that the State should itself take permanent charge of defectives who have violent or dangerous propensities and consequently require closer restrictions than should prevail under the supervision and in the institutions of local authorities.

Appen-
dix II.

The Central Authority.

The Act sets up as central Authority "the Board of Control," now consisting of the existing paid Commissioners in Lunacy and five additional Commissioners (three paid, two unpaid), appointed on the recommendation of the Secretary of State for the Home Department, under whose general directions the Board will act.

By Section 25 it is provided that the Board shall exercise general supervision and control over defectives, over the administration by local authorities of their powers and duties under the Act, and over the institutional treatment and the guardianship which they provide for defectives. The Board will themselves establish and maintain State institutions for defectives of violent or dangerous propensities, and they will administer the grants to be made under the Act out of money provided by Parliament. By Section 41 the Secretary of State has conferred upon him extensive powers of making regulations with respect to the certification, approval, management, and visitation of institutions and homes, and the treatment of patients detained therein or kept under guardianship. These regulations will, it is hoped, be ready early next year. The Board will by Mr. McKenna's directions issue circulars to local authorities bringing these regulations to their knowledge and explaining them as well as other points relating to their functions under the Act. Full information will also be given as to the mode of distribution of the Government grants by the Board and the conditions under which they can be earned.

In accordance with Section 65 of the Act all the powers and duties of the Commissioners in Lunacy under the Lunacy Acts will on the 1st of April next be transferred to the Board of Control. The Board will accordingly become from that date the central authority under those Acts also; and, subject to the provisions of an Order in Council which will be made to come into operation on that date, everything which is required or authorized to be done to, by, or in respect of Commissioners in Lunacy or any officer of theirs will in future be done to, by, or in respect of Commissioners of the Board of Control or the corresponding officer of the Board.

The duties of the Local Authority under the Lunacy Acts with respect to the provision of asylums and other matters will thenceforth be carried out in consultation with and under the supervision of the Board of Control, who will be the medium of communication between the authorities and the Secretary of State.

The Local Authority.

The Local Authority under the Act is the Council of the County or of the County Borough (Section 27) ; and it is laid down (Section 28) that every Local Authority shall constitute a committee for the purposes of the Act to which shall stand referred all matters relating to the exercise of the powers of local authorities under the Act except the power of raising a rate or borrowing money, and to which may be delegated all the powers of the Local Authority with the same exception. This Committee may be constituted at the discretion of the Council in any of the ways mentioned in Section 28, and it is open to the Council to apply under Section 66 for an Order of the Secretary of State authorizing the appointment of the Committee, when established, to be also the Visiting Committee or Asylums Committee under the Lunacy Acts.

It will often be expedient that two or more local authorities should join for the purposes of the execution of all or some of their duties under the Act, and by Section 29 provision is made to enable this to be done by the constitution in such circumstances of a Joint Committee or Joint Board.

Duties of Local Authorities.

The general duties of local authorities are summarized in Section 30. They must

- (a) ascertain what persons within their area are defectives subject to be dealt with under this Act otherwise than under paragraph (a) of sub-section 1 of Section 2 of the Act ;
- (b) provide suitable supervision for such persons, or if such supervision affords insufficient protection, take steps for securing that they shall be dealt with by being sent to institutions or placed under guardianship ;
- (c) provide suitable and sufficient accommodation for such persons when sent to certified institutions by orders under the Act, and for their maintenance therein, and for the conveyance of such persons to and from such institutions ;
- (d) make provision for the guardianship of such persons when placed under guardianship by orders under the Act ;
- (g) appoint or employ sufficient officers and other persons to assist them in the performance of their duties ;
- (h) make to the Board annual reports and such other reports as the Board may require.

But their obligation to perform the duties mentioned in paragraphs (b), (c), (d), and (g) above quoted arises only where the contribution out of money provided by Parliament towards the cost on income account of performing such duties amounts to one-half of the net amount as approved by the Board of such cost [Section 30, proviso (i.)].

The obligation of local authorities is still further limited by the

following important provisoes [Section 30 (ii.), (iii.)]:—that they shall not have any duties with respect to defectives who for the time being are being provided for by Poor Law Authorities under the Acts relating to the relief of the poor, nor with respect to defectives who for the time being are, or who might be, provided for by Local Authorities under Lunacy Acts. There will be certain exceptions to these two provisoes determined by regulations to be made by the Secretary of State and the other Government Departments concerned: these regulations are now under consideration and will be communicated later to local authorities by the Board of Control. Appendix II.

Finally, local authorities are not placed under any obligation to deal with defective children between seven and sixteen years of age except those whose names and addresses have been notified to them by the local education authority. Such notifications will be made in accordance with regulations to be issued presently by the Board of Education, and upon receipt of these regulations, and of those referred to in the last paragraph, local authorities will become fully aware of the whole scope of their obligations under the Act.

In the meanwhile, it is unnecessary to add to the clear enumeration in Section 30 of the duties incumbent on local authorities. It may be convenient, however, to point out that the duty imposed upon them [Section 30 (a)], to ascertain the number of persons in their area who are defectives subject to be dealt with under the Act otherwise than by the voluntary act of their parents or guardians does not confer upon local authorities or their officers the right to make domiciliary visitations without the consent of the occupiers or to carry out inquiries in other ways which might reasonably be regarded as inquisitorial and objectionable. Section 15 (2) enacts that "if it appears to a Justice on information on oath laid by an officer or other person authorized by the Local Authority that there is reasonable cause to believe that a defective is neglected or cruelly treated in any place within the jurisdiction of the Justice, the Justice may issue a warrant authorizing any constable named therein, accompanied by the medical officer of the Local Authority or any other duly qualified medical practitioner named in the warrant, to search for such person, and, if it is found that he is neglected or cruelly treated, and is apparently defective, to take him to and place him in a place of safety until a petition can be presented under this Act, and any constable authorized by such warrant may enter, and if need be by force, any house, building, or other place specified in the warrant, and may remove such person therefrom." This procedure should be used when it is suspected on reasonable grounds that there is actual neglect or illusage of a defective to whom access cannot otherwise be obtained, but apart from the powers given by this sub-section the Act does not authorize the forcible entry of premises or the forcible removal of a defective for the purpose of the local authority's investigations.

The supervision which the local authority is enjoined [Section 30 (b)], to exercise over defectives will be carried out by its own officers acting either alone or in co-operation with the local voluntary societies which are hereinafter referred to. It is to be hoped that the

Appendix II.

watchful supervision of the local authority will be effectual not only to discover and provide an immediate remedy for cases in which defectives are cruelly treated, or left without the protection which their helpless condition demands, but also to furnish such advice, warnings, and assistance to the relatives of defectives as will in many instances enable their requirements to be met in their own homes without resort to the more costly methods of guardianship and detention in institutions.

The County Council will observe that the duty imposed upon them by section 30 (c) and (d) to provide guardianship or institutional accommodation for defectives covers all cases dealt with under "Order" (Section 4), whether the Order be that of a judicial authority or of a court of criminal jurisdiction or of the Secretary of State. It will be the duty of the Local Authority, subject to their receiving the Treasury contribution, to provide the necessary accommodation for the detention or guardianship of all defectives so committed, except those of violent and dangerous propensities, who may be admitted or transferred on the authority of the Secretary of State to a State institution.

The cost of the maintenance of defectives under "Order," which will have to be met jointly by the Local Authority, and the Treasury will be substantially reduced if adequate effect is given to the provisions of Sections 13 and 14 of the Act, under which reasonable contributions may be ordered to be paid by the defective or any person liable to maintain him towards the expenses of his maintenance in an institution or under guardianship, and any charges incidental thereto. The report of the Royal Commission on the Feeble Minded recognized the fairness and the expediency of such Orders for contribution, and it will be the duty of Local Authorities to take the necessary steps to obtain Orders in all cases where the circumstances of the defective or his relatives are such as to justify them.

Permissive Powers of Local Authorities.

Local authorities are given by Section 30 (e) substantial powers of assisting and protecting even those defectives who are not included in the classes in respect of whom their intervention is obligatory. They may "if they think fit, maintain in an institution or approved home or contribute towards the expenses of maintenance in an institution or approved home or the expenses of guardianship of any defectives other than aforesaid." The assistance given in these cases is discretionary with the local authority, and will not be aided by contributions from the Treasury; moreover, the expense which may be incurred by the Local Authority in rendering it must not in any one year exceed an amount equal to that which would be produced by a rate of one-halfpenny in the pound: *see* Section 33 (1). There is undoubtedly a wide field within which these permissive powers can be exercised by a Local Authority to the great benefit of defectives within their area and the relief of persons responsible for their care. There are everywhere to be found defectives living in their own homes who are not, it is true, neglected or ill-treated

or allowed to fall into crime, but who impose a heavy burden on their parents or relatives, whose presence among them is detrimental to the rest of the family, and who cannot at home receive the training and treatment which is essential in order to make the most of their faculties and to stave off degeneration. In many such cases the relatives could afford to pay a small, in some instances a substantial, contribution to the cost of the maintenance of the defective in a suitable institution; and Local Authorities would be carrying out a useful work in assisting the relatives to secure this advantage by pecuniary grants or the provision of accommodation at low charges.

Appen-
dix II.

Modes of Providing Accommodation.

Subject to the approval of the Secretary of State, Local Authorities are empowered by Section 38 of the Act to establish and maintain, either alone or in combination with other Local Authorities, certified institutions for the reception of defectives, or they may contract with the Managers of any certified institution for the reception therein of the defectives for whom they are required or authorized to make provision. Similar contracts may, under Section 37, be entered into with Boards of Guardians who have provided premises specially fitted for the detention, care, and training of defectives, and have had them approved by the Board of Control for the purpose of such detention. The Section requires that the application for the approval of the Board shall be made by the Local Authority under the Mental Deficiency Act; and it should be understood that it will be useless to seek the authority of the Board for the use of ordinary workhouse accommodation for the detention of defectives, and that applications will be favourably entertained only when the premises in question have been specially provided and properly equipped so as to meet satisfactorily all the requirements of the class or classes of defectives proposed to be received therein.

The conditions under which institutions will be certified or approved and the regulations for the management of such Institutions will be communicated to you shortly by the Board of Control.

Ascertainment of Responsible Local Authorities.

The responsibility of providing accommodation in institutions or guardianship, as the case may be, for a defective ordered to be sent to an institution or to be placed under guardianship is fixed by Sections 43 and 44 of the Act on the Council of the County or County Borough in which the defective resided; but the Local Authority concerned has to be given an opportunity of making representations before any such order is made. Any Council aggrieved by a decision as to the place of residence of any person may appeal to a petty sessional court; but it is not anticipated that difficulty will often arise in ascertaining which Council is responsible. It is understood that few cases of dispute have arisen under the analogous provisions of Section 74 of the Children Act.

Societies for the Assistance of Defectives.

It is provided by Section 48 that where a Society has undertaken the duty of assisting or supervising defectives whilst not in institutions grants of money may be made by the Treasury in aid of the expenditure of the Society in connection with such persons. Such Societies already exist in certain localities, working mostly for the benefit of juvenile defectives; and they are likely to increase in number as the Act comes into effective operation. The Secretary of State believes that voluntary Associations with these objects may, when their active members are discreet and public spirited persons, prove to be valuable helpers of the Local Authorities in the execution of certain portions of their delicate duties. Where Local Authorities are satisfied that they can properly avail themselves for certain purposes of the assistance which voluntary Societies may offer within their area, the adoption of such a policy may be expected to bring about some economy, and to tend towards the smooth working and general acceptance of the Act.

The Secretary of State feels assured that he can rely on the energetic co-operation of the Local Authorities with the Board of Control in giving effect to the valuable provisions which the Mental Deficiency Act contains for the protection and care of the numerous persons who are congenitally so deficient in understanding and self-control that they cannot be neglected without detriment to the community and much suffering to themselves.

I am, Sir,

Your obedient Servant,

EDWARD TROUP.

[Additional copies of this circular may be obtained on application to the Board of Control, at 66, Victoria Street, London, S.W. The Board of Control hope, when the regulations under the Act have been made, to issue an authorized edition of the Mental Deficiency Act and the regulations.]

The Clerk to the

County Council of

HOME OFFICE—CIRCULAR.

MENTAL DEFICIENCY ACT, 1913.

(3 AND 4 GEO. 5, CAP. 28.)

Home Office,
2nd April, 1914.

SIR,

I AM directed by the Secretary of State to request that you will call the attention of the Justices of your Bench to the provisions of the Mental Deficiency Act, 1913, which came into operation on April 1st, 1914, and under which important powers are conferred on the Courts in dealing with mentally defective persons brought before them.

Definition of Defectives.

Definitions of the various classes of persons who are mentally defective within the meaning of the Act, carefully framed by Parliament on the basis of suggestions made by the Royal College of Physicians, are contained in Section 1, which enacts as follows :—

“ The following classes of persons who are mentally defective shall be deemed to be defectives within the meaning of this Act :—

- “(a) Idiots ; that is to say, persons so deeply defective in mind from birth or from an early age as to be unable to guard themselves against common physical dangers ;
- “(b) Imbeciles ; that is to say, persons in whose case there exists from birth or from an early age mental defectiveness not amounting to idiocy, yet so pronounced that they are incapable of managing themselves or their affairs, or, in the case of children, of being taught to do so ;
- “(c) Feeble minded persons ; that is to say, persons in whose case there exists from birth or from an early age mental defectiveness not amounting to imbecility, yet so pronounced that they require care, supervision, and control for their own protection or for the protection of others, or, in the case of children, that they by reason of such defectiveness appear to be permanently incapable of receiving proper benefit from the instruction in ordinary schools ;
- “(d) Moral imbeciles ; that is to say, persons who from an early age display some permanent mental defect coupled with strong vicious or criminal propensities on which punishment has had little or no deterrent effect.”

Appen-
dix II.

Power to deal with Defectives.

Defectives coming within these definitions can be *dealt with under the Act* by being sent to an Institution or placed under Guardianship, but only in the circumstances which are set out in detail in Section 2. The provision in that section which chiefly concerns Courts of Summary Jurisdiction is that which provides that a person who is a defective may be *dealt with under the Act* "if in addition to being a defective he is a person who *is found guilty of any criminal offence*, or who is (a) ordered or found liable to be ordered to be sent to an Industrial School."

A defective subject to be dealt with under the Act "may be so dealt with under the Order of a Court" if he be "found guilty of a criminal offence punishable in the case of an adult with imprisonment or penal servitude," or (in the case of a child brought before a Court under Section 58 of the Children Act, 1908) if he be "found liable to be ordered to be sent to an Industrial School." [Section 4 (b).]

The powers which Courts have heretofore possessed of dealing with the various sorts of mental defectives who are brought before them have proved altogether inadequate; and the power now given of placing such persons under guardianship or in detention in Institutions as provided by the Mental Deficiency Act will, the Secretary of State feels sure, prove to be a valuable resource for the Courts and a benefit to defective offenders, who are in many instances but little deterred by punishment, and who require close supervision and control to save them from frequent relapse into crime and further mental degeneration.

Procedure.

The procedure to be followed with mentally defective persons who are found guilty by a Court of competent jurisdiction is set out in Section 8 of the Act.

The Court, if satisfied on medical evidence that the person charged is a defective within the meaning of the Act may either

- (a) "postpone passing sentence or making an order for committal to an Industrial School, and direct that a petition be presented to a Judicial Authority under the Act, with a view to obtaining an order that he be sent to an Institution or placed under Guardianship."

or

- (b) (in lieu of passing sentence) *itself make any order which a Judicial Authority might have made.*

A Judicial Authority, and therefore the Court, may [Section 6 (3)] make any of the following orders:—

- (1) It may order a defective who is a person of dangerous or violent propensities to be sent to a State Institution,

(a) Children are liable to be sent to Industrial Schools when charged with the offences or found in the circumstances set out in the Children Act, 1908, Section 58.

- provided under Section 35 of the Act, if the managers—*i.e.*, the Board of Control—are willing to receive him ; Appendix II.
- (2) It may order a defective to be sent to a Certified Institution, the Managers of which are willing to receive him ;
 - (3) It may order a defective to be sent to a Certified House [Section 49 (2)], the owner of which is willing to receive him ; or
 - (4) It may order a defective to be placed under guardianship.

A defective sent to a State Institution will be maintained at the cost of the State ; one sent to a Certified Institution, or placed under guardianship, will be maintained partly at the cost of the State, and partly by the Local Authority ; subject in either case to contributions from the defective or the person liable to maintain him. Neither the State nor the Local Authority under the Act has power to contribute towards the expenses of defectives in Certified Houses, and defectives may not, therefore, be sent to such Houses unless the whole cost of their conveyance and maintenance can be provided from other sources.

If the charge is one which the Court has power to deal with summarily, the Court, if it finds that the charge is proved, may deal with the case under the Mental Deficiency Act without proceeding to a conviction. [Section 8 (1).]

The Court may in dealing with a defective either act on the medical evidence given at the trial or call for further evidence. [Section 8 (2).]

It is the duty of the Police when any person charged with an offence appears to them to be a defective to communicate with the Local Authority, to bring before the Court such evidence of his mental condition as may be available, and to give notice to the person charged and to his parent or guardian, if known. [Section 8 (5).]

When the Court does not itself deal with the case but directs a petition to be presented, the Court may order the defective to be maintained in an Institution for defectives or in a place of safety, pending the presentation of the petition and the adjudication thereof. [Section 8 (3).] A definition of the term “ a place of safety ” is given in Section 71. When a defective is remanded or committed for trial, the Court may direct him to be detained in an Institution or to be placed under the guardianship of a proper person, who will have to enter into a recognizance for his appearance. [Section 8 (4).] The expenses of the maintenance of a defective who is so detained before the adjudication or trial will be borne jointly by the Local Authority and the State. The powers conferred on the Court by these sub-sections are in addition to, and not in substitution of, the power of remand already available.

Guardianship and Institution Treatment.

Where the Court is of opinion that the offender is a defective with respect to whom an order should be made under the Act, it remains to be decided whether the circumstances of the offence, and of the defective's mental and moral condition, are such as to indicate that

Appen-
dix II.

he can be provided with adequate care and control only in an Institution, or whether, on the other hand, an order that he be placed under guardianship may be practicable and sufficient. The adoption of the latter course, whenever circumstances admit of it, will have the advantage of diminishing the charge for maintenance, and will, it is anticipated, provide in many instances the protection which is called for in the defective's interest with less severe restrictions on his liberty than committal to an Institution involves.

In pursuance of Regulations which have been made by the Secretary of State, the Officer of the Local Authority will, it is hoped, always be in a position to supply the Court with information as to suitable persons who are competent and willing to undertake the duties of guardianship.

Some time will have to elapse before State Institutions are built and fully equipped, but every effort will be made to have an Institution of this character available for use at the earliest opportunity. There will probably be but few cases in which committal by Justices to a State Institution would be justified in the first instance, and defectives will usually be sent to Certified Institutions. It will be remembered that the Act contains wide powers [Section 41 (f)] enabling transfers to be made, at any time, of persons to Institutions more suitable to their individual needs. It is hoped that every Local Authority will shortly provide a Certified Institution, either alone or in conjunction with other Local Authorities, or under contract with the managers of Institutions provided under Section 36 of the Act. Such Certified Institutions will be conducted under the supervision of the Board of Control and in accordance with Regulations made by the Secretary of State.

A defective liable to be sent to a Certified Institution may in the discretion of the Court be sent instead to a Certified House, if the Court is satisfied that proper provision has been made for the cost of his conveyance to the Certified House and his maintenance therein, and any charges incidental thereto.

The Court, in determining the Institution to which a defective is to be sent must endeavour to choose an Institution conducted in accordance with his religious persuasion. [Section 17.]

Lists of Certified Institutions will be supplied by the Board of Control, so as to be available for the information of the Courts.

Section 11 of the Act contains the provisions of the Act with respect to the duration of orders of detention or of guardianship. It is enacted that the case of every defective in respect of whom an order has been made shall be reconsidered at stated intervals by the Board of Control and the Visitors under the Act, so as to secure that no defective shall be kept under public control longer than is necessary in his interests.

Cost of Maintenance.

Where an order for detention or guardianship is made, the Council of the County or County Borough *in which the defective resided* comes under an obligation to provide for the conveyance of the defective

to and his reception and maintenance in an Institution, or under guardianship, and before the order is made that Council must be allowed an opportunity of being heard. [Section 43 (2).] Further, if room is available in an Institution, suitable for the defective, provided by the responsible authority, an order shall not, without the consent of that authority, be made for sending the defective to any other Institution. Appendix II.

Section 44 provides that, where an order is made in respect of a person found guilty of an offence, that person shall be presumed to have resided in the place where the offence was, or was alleged to have been, committed, unless it is proved that he resided in some other place. It is further provided that, where the order is made by a Court of Assize or Quarter Session, and any question arises as to the residence of the defective, the Court shall remit to a Court of Summary Jurisdiction, for the place where the person is committed for trial, the determination of his place of residence. It is only in the rare case of there being a real doubt as to where a person resides that the question will have to be resolved as to where the defective would, if he were a pauper, be deemed to have acquired a settlement within the meaning of the law relating to the relief of the poor. [Section 44 (4).]

Provision is made in Section 13 of the Act for the making by a Judicial Authority of an order requiring a defective, or any person liable to maintain him, to contribute towards the expenses of his maintenance. The Judicial Authorities for the purpose of the Mental Deficiency Act are the same as the Judicial Authorities for the purposes of the Lunacy Acts. [Section 19.]

Part IV. (General) of the Act contains important amendments of the Criminal Law for the protection of defectives against immoral acts, ill-treatment, and improper detention, and for the due enforcement of the Act and the Regulations thereunder.

Copies of the Act, of the provisional Regulations made by the Secretary of State, and of the provisional Rules made by the Lord Chancellor pursuant to Section 44 of the Act are enclosed herewith.

I am, Sir,

Your obedient Servant,

EDWARD TROUP.

STATUTORY RULES AND ORDERS, 1914. (*a*)

No. 1887.

MENTAL DEFECTIVE, ENGLAND.

THE MENTAL DEFICIENCY (NOTIFICATION OF CHILDREN) REGULATIONS, 1914, DATED JUNE 26, 1914, MADE BY THE BOARD OF EDUCATION UNDER SECTION 2 (2) OF THE MENTAL DEFICIENCY ACT, 1913 (3 & 4 GEO. 5, c. 28).

The Board of Education, by virtue and in pursuance of the powers in them vested under the Mental Deficiency Act, 1913, and of every other power enabling them in this behalf, do order, and it is hereby ordered, that the following Regulations be observed :—

1. The School Medical Officer of the Local Education Authority and such other duly qualified medical practitioners approved by the Board of Education under the Elementary Education (Defective and Epileptic Children) Act, 1899, as the Local Education Authority may nominate for that purpose, hereinafter called Certifying Officers, shall be the Medical Officers for the purpose of these Regulations.

2.—(1) If the Certifying Officer certifies that a child of the age of seven years or upwards is incapable, by reason of mental defect, of receiving benefit from instruction in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, the Local Education Authority shall notify the name and address of the child to the Local Authority under the Mental Deficiency Act, 1913, and shall furnish that Authority with a copy of the certificate of the Certifying Officer, which shall be in the prescribed form, and of his report on the child.

(2) In any case where, upon consideration of the certificate of the Certifying Officer and of any report which may be obtained by the Local Education Authority as hereinafter provided, the Local Education Authority are in doubt whether a child is or is not capable of receiving such benefit as aforesaid, they shall refer to the Board of Education for determination the question whether the name should be notified.

(3) In any case where it is proposed to notify under this Article of these Regulations the name of a child who is not an idiot or an imbecile, the Local Education Authority shall furnish the Board of Education with a copy of the report of the Certifying Officer on the child, and if, after consideration of the report, the Board so require, shall refer to the Board for determination the question whether the name should be notified.

(*a*) These Regulations confirm and amplify those dated March 24th, 1914, appearing at pp. 874, *et seq.*, *ante*.

3.—(1) If the Certifying Officer certifies that a child of the age of seven years or upwards who is, or has been, in attendance at a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, is incapable of receiving further benefit from instruction in such a school or class, the Local Education Authority shall notify the name and address of the child to the Local Authority under the Mental Deficiency Act, 1913, and shall furnish that Authority with a copy of the certificate of the Certifying Officer, which shall be in the prescribed form, and of his report on the child. Appen-
dix II.

(2) In any case where, upon consideration of the certificate of the Certifying Officer and of any report which may be obtained by the Local Education Authority as hereinafter provided, the Local Education Authority are in doubt whether a child is or is not capable of receiving such further benefit as aforesaid, they shall refer to the Board of Education for determination the question whether the name should be notified.

(3) In any case where it is proposed to notify under this Article of these Regulations the name of a child who is not an idiot or an imbecile, the Local Education Authority shall furnish the Board of Education with a copy of the report of the Certifying Officer on the child and if, after consideration of the report, the Board so require, shall refer to the Board for determination the question whether the name should be notified.

4.—(1) If the Certifying Officer certifies that a child of the age of seven years or upwards cannot be instructed in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, without detriment to the interests of the other children, the Local Education Authority shall notify the name and address of the child to the Local Authority under the Mental Deficiency Act, 1913, and shall furnish that Authority with a copy of the certificate of the Certifying Officer, which shall be in the prescribed form, and of his report on the child.

(2) In any case where, upon consideration of the certificate of the Certifying Officer and of any report which may be obtained by the Local Education Authority as hereinafter provided, the Local Education Authority are in doubt whether the retention of a child in a special school or class would be detrimental to the interests of the other children, they shall refer to the Board of Education for determination the question whether the name should be notified.

(3) In any case where it is proposed to notify under this Article of these Regulations the name of a child who is not a moral imbecile, the Local Education Authority shall furnish the Board of Education with a copy of the report of the Certifying Officer on the child, and if, after consideration of the report, the Board so require, shall refer to the Board for determination the question whether the name should be notified.

5. If the Local Education Authority are satisfied upon any representation made to them or otherwise that it is desirable that a mentally defective child of the age of seven years or upwards who is certified to be capable of receiving benefit from instruction in a special school or class under the Elementary Education (Defective

Appendix II.
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and Epileptic Children) Act, 1899, should be dealt with by way of supervision or guardianship under the Mental Deficiency Act, 1913. they shall notify the case to the Board of Education, together with such particulars as the Board of Education may require, and if the Board certify that there are special circumstances which render it desirable that the child should be dealt with under the Mental Deficiency Act, 1913, by way of supervision or guardianship, the Local Education Authority shall notify the name and address of the child to the Local Authority under the Mental Deficiency Act, 1913.

6. The Local Education Authority shall notify to the Local Authority under the Mental Deficiency Act, 1913, the name and address of any mentally defective child who, on or before attaining the age of sixteen, is about to be withdrawn or discharged from a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, and in whose case the Local Education Authority are of opinion that it would be to his benefit that he should be sent to an institution or placed under guardianship under the Mental Deficiency Act, 1913.

7. For the purpose of these Regulations the Local Education Authority may ask for a report from any teacher of the school, if any, which the child has been attending, or from any other person, and if on consideration of such report or reports or of the report of the Certifying Officer the Local Education Authority are in doubt as to the action to be taken, they shall refer the case to the Board of Education for determination.

8. In any case where a Local Education Authority propose to notify to the Local Authority under the Mental Deficiency Act, 1913, the name of a child who is blind or deaf within the meaning of Section 15 (1) of the Elementary Education (Blind and Deaf Children) Act, 1893, the Local Education Authority shall furnish the Board of Education with a copy of the report of the Certifying Officer on the child and, in the case of a child already in attendance at a special school for blind or deaf children, with a report by the Head Teacher of the school on the child's progress while in the school, and if, after consideration of the report or reports, the Board so require, shall refer to the Board for determination the question whether the name of the child should be notified.

9. The Local Education Authority shall inform the parent of any child affected by these Regulations of any action proposed to be taken with reference to that child under these Regulations.

10.—(1) In these Regulations the expression "prescribed" means prescribed in the arrangements made by the Local Education Authority under Section 1 of the Elementary Education (Defective and Epileptic Children) Act, 1899, and Section 31 (1) of the Mental Deficiency Act, 1913.

(2) These Regulations may be cited as the Mental Deficiency (Notification of Children) Regulations, 1914.

Given under the Seal of the Board of Education the 26th day of June, 1914.

L. A. Selby Bigge.

MENTAL DEFICIENCY ACT, 1913.

PROVISIONAL REGULATIONS MADE BY THE SECRETARY OF STATE UNDER THE MENTAL DEFICIENCY ACT, 1913.

I hereby certify in pursuance of Section 2 of the Rules Publication Act, 1893, that on account of urgency the following Regulations shall come into immediate operation, and in pursuance of the powers conferred on me by the Mental Deficiency Act, 1913, I hereby make the following Regulations to come into operation forthwith as Provisional Regulations:—

1. These Regulations may be cited as the Mental Deficiency Act Provisional Regulations, 1914.

2. In these Regulations, unless the context otherwise requires, “ The Act ” means the Mental Deficiency Act, 1913.

“ The Board ” means the Board of Control.

“ A Commissioner ” or “ Commissioners ” means a Commissioner or Commissioners of the Board of Control.

“ Guardian,” except when used in the phrase “ parent or guardian,” means a guardian appointed under the Act.

Other words have the same meaning as in the Act.

3. The penalty for a breach of any of these Regulations shall, where no other penalty is prescribed, be a penalty not exceeding a fine of £20.

DUTIES OF LOCAL AUTHORITY.

I. Ascertainment of Defectives subject to be dealt with.

4. The Local Authority shall forthwith take the steps set out in the following Regulations to enable them to ascertain what persons within their area are defectives subject to be dealt with under the provisions of paragraph (b) of sub-section (1) of Section 2 of the Act.

5. They shall receive, preserve and record in the manner prescribed by the Board the names and addresses of such defectives and all notices, certificates, reports, opinions and other information respecting such defectives which are communicated to them—

(i) by the local education authority;

(ii) by any police authority (Section 8 (5));

(iii) by a court directing under Section 8 (1) (a) the presentation of a petition to a judicial authority, or itself making an order under Section 8 (1) (b);

- (iv) by the Secretary of State;
- (v) by any poor law authority;
- (vi) by the authorities of any institution or other premises in which lunatics or defectives are maintained;
- (vii) by any other local authority.

6. They shall instruct their officers to ascertain by all lawful and proper inquiries what defectives subject to be dealt with as aforesaid are within their area, and for this purpose shall get into communication with all available and reliable sources of information.

7. They may, if they think fit, delegate to approved members or officers of local societies for assisting or supervising defectives, any of their functions connected with the ascertainment of defectives which they think can properly be carried out by them either alone or in co-operation with the officers of the Local Authority.

8. Officers of, and other persons employed by, the Local Authority on any of the duties above mentioned shall be furnished with and, when required, shall produce evidence of their authority.

9. In addition to the names and addresses of defectives, the Local Authorities shall instruct their officers to obtain, with regard to all defectives subject to be dealt with as aforesaid, all necessary information as to the nature and degree of their mental defects and other defects, if any, as to their means and mode of living and circumstances generally and as to the care and control which exists or is needed in each case. This information shall include details as to parentage of the defectives and the age and mode of life of parents, the number of their children and the relative position in family of the alleged defective. Inquiries for the purposes of obtaining this information shall be carried out under the directions of a medical officer.

10. The information obtained under Regulation 6 shall be embodied in a register to be kept in such form as may be prescribed by the Board.

11. There shall also be kept up to date a card index to the register in the form and containing the particulars prescribed by the Board.

12. A duplicate of each card shall forthwith be sent to the Board of Control.

13. In the event of any defective being removed from the district of a Local Authority, a copy of the particulars on his card shall be forwarded to the Local Authority of the area to which he has removed.

II. Supervision, &c.

14. It shall be the duty of a Local Authority to ascertain through their officers, what provision (if any) exists for the well-being, care and protection of the defectives who are subject to be dealt with under Section (2) (1) (b), and who are not in institutions or

under guardianship and to decide in what cases supervision affords sufficient protection.

15. Such supervision shall be carried out by visitation and inspection of the homes or places of residence of such defectives, through such officers and at such times and under such conditions as the Local Authority may direct. Such advice, assistance and guidance as the Local Authority approve shall be given to the relatives for the benefit of the defective.

16. Such visitation and inspection may, if the Local Authority think fit, be delegated under conditions approved by the Board of Control to a local society for assisting or supervising defectives.

17. Reports of the result of such supervision shall be laid before the Local Authority at such times as they may direct. A special report shall be made to the Local Authority immediately if the physical or mental state of any defective or the conditions and surroundings in which he is living, and the means available for his care and control become such that in the opinion of the supervising officer the supervision affords insufficient protection.

III. *Provision of Institutions.*

18. Where the Local Authority has decided to provide accommodation for defectives by undertaking the establishment of an Institution, the Committee for the Care of the Mentally Defective appointed by such Local Authority may agree upon a site or premises to be purchased and upon plans and estimates for lands and buildings to be provided for that purpose, or for the restoration, alteration, or enlargement of such an Institution, and shall report to the Local Authority all plans, estimates and contracts which they have agreed upon, and such plans, estimates and contracts shall be subject to the approval of the Local Authority, except where the decision upon such matters has been delegated to the Committee, or when the amount to be expended does not exceed an amount previously fixed by the Local Authority: but no such purchase shall be made or agreement or contract entered into, without the approval of the Secretary of State.

19. Contracts for the reception and maintenance of defectives entered into by a Local Authority with the Managers of any Certified Institution shall be reported by the Local Authority to the Board of Control, and shall not be carried into effect until approved by the Secretary of State.

20. For the purpose of procuring the approval of the Secretary of State to any agreement, contract, or plan requiring approval under this Act, the agreement, contract, or plan, with an estimate of the probable cost of carrying it into effect, shall be submitted to the Board of Control, who, after making such inquiries as they think fit, shall report thereon to the Secretary of State, who may approve the agreement, contract, or plan, with or without modification, or may refuse his approval.

21. An approval, consent, modification or other decision of the Secretary of State will be communicated to the Local Authority by the Board.

22. A Local Authority shall be entitled to make representations to the Secretary of State as to any proposed modification of a plan, agreement, or contract, and it shall be the duty of the Local Authority to give effect to the decision which the Secretary of State comes to after his consideration of such representations.

IV. *General.*

23. The Local Authority shall take steps to secure, so far as is possible, that a defective sent to an Institution for whose maintenance they may become responsible shall be sent to an Institution suitable for the age, sex, class, and grade of defectives to which he belongs.

24. The Local Authority shall provide for the proper and suitable conveyance of a defective to or from any such Institution and for the care and protection of such defective during removal; the defective shall be suitably clothed and be accompanied by at least one attendant, who in the case of the removal of a female defective must be of the same sex.

25. Where proceedings are taken for the placing of a defective under guardianship, the Local Authority which may become responsible for his maintenance shall lay before the Judicial Authority the names of such persons, including relatives of the defective, as are in their opinion suitable persons to undertake the duties of guardianship under this Act.

26. No person who already has charge of a defective or a person certified under the Lunacy Acts shall be recommended to the Judicial Authority as a suitable person to undertake the duties of guardianship without the consent of the Board.

27. The Local Authority, on becoming aware that a defective for whose maintenance they are responsible is or has become unsuitable for guardianship or that a guardian is unfit for the office of guardian or has died or resigned or abandoned his office, shall take all necessary steps for the care and protection of the defective.

V. *Reports.*

28. Every Local Authority shall, in or before the month of June in every year, make to the Board a report, made up to and including December 31st of the preceding year, of the performance of their duties under this Act, of the condition and management of any Institution which they may have provided either alone or in combination with another Local Authority, and of the care of the defectives for whom they are responsible, with such other matters as they think deserving of notice.

The report shall be accompanied by financial statements for the year ending the 31st of March, and by statistical tables, made-

up to the 31st of December, relating to the patients, in such form as may be approved by the Board or as may be prescribed by them from time to time.

The report shall, with other particulars respecting such defectives, supply information as to

- (a) The total number dealt with during the year, the mode in which they have been provided for, and a general account of their mental and physical condition.
- (b) The number of admissions, removals and deaths during the year and the number remaining under care at the end of the year, distinguishing in each instance those dealt with in Institutions, under guardianship and under supervision, or in Approved Homes.
- (c) Provision for
 - (i.) Classification.
 - (ii.) Industrial training and education.
 - (iii.) Employment.
 - (iv.) Promotion of industry and good behaviour, including any system of encouragement and rewards.
 - (v.) Recreation and play.
 - (vi.) Attendance at religious services.

29. Every Local Authority shall also furnish such other reports as the Board may from time to time require.

PROCEDURE ON PETITIONS.

30. No person shall present a Petition unless he is at least 21 years of age, and has, within 14 days before the presentation of the Petition, personally seen the alleged defective.

31. No Petition shall be presented unless signed by the Petitioner and accompanied by the certificate or certificates and the statutory declaration required by the Act and a statement of particulars.

32. If the Petition is presented by a relative or friend, the petitioner shall in the Petition undertake that he will personally, or by someone specially appointed by him, visit the defective once at least in every six months, and the undertaking shall be recited in the Order.

33.—(a) The Judicial Authority shall visit the defective or summon him to appear before him as soon as practicable after receiving the Petition.

(b) After seeing the alleged defective, the Judicial Authority shall either forthwith consider the Petition and make an order thereon or dismiss the same, or shall appoint as early a time as practicable, not being more than seven days from the presentation of the Petition for considering the same, and notice of the time appointed shall be given to the petitioner, the alleged defective, the parent or guardian, and the Local Authority (if any) concerned.

(c) If the proceedings are to be conducted in private, the notice shall so state, and shall also state what persons will be allowed to be present.

34. If a Petition is dismissed, the Judicial Authority shall deliver to the petitioner a statement in writing under his hand of his reasons for dismissing the same, and shall send a copy of such statement to the Board.

35. If, after a Petition has been dismissed, another Petition is presented as to the same alleged defective, the person presenting such other Petition shall obtain from the Board, and present with his Petition, a copy of the statement referred to in paragraph 34.

36. Any Judicial Authority making or refusing to make an Order, shall, if so required by the Board, give to them all such information as they may require as to the circumstances in which the Order was made or refused.

37.—(a) One of the medical certificates accompanying the Petition shall whenever practicable be under the hand of the usual medical attendant, if any, of the alleged defective. If, for any reason, it is not practicable to obtain a certificate from such usual medical attendant, the reason shall be stated in the Petition.

(b) Every medical certificate accompanying a Petition shall state the facts upon which the certifier has formed his opinion that the alleged defective is a defective, distinguishing facts observed by himself from facts communicated by others, and an Order shall not be made upon a certificate which is not founded wholly or in part upon facts observed by the certifier.

(c) An Order shall not be made unless each medical practitioner who signs a certificate has, separately from the other medical practitioner, personally examined the alleged defective not more than seven clear days before the date of the presentation of the Petition.

(d) A medical certificate accompanying a Petition shall not be signed by the petitioner, or by the husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner, or assistant of the petitioner.

(e) Neither of the persons signing the medical certificates accompanying the Petition shall be the husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner, or assistant of the other of them.

(f) A medical certificate shall not be signed by a Visitor unless he is ordered by the Judicial Authority to examine the alleged defective.

(g) An Order shall not be made sending any defective to an Institution or certified House or placing him under guardianship where any certificate accompanying the Petition has been signed by any of the following persons:—

(i.) A manager or owner of the Institution or certified House, or the person appointed guardian of the defective.

- (ii.) Any person interested in the payments on account of the defective.
- (iii.) Any regular medical attendant of the Institution or certified House.
- (iv.) The husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner, or assistant of any of the foregoing persons.
- (h) Where the person who joins with the petitioner in making the statutory declaration is not one of the persons who gave a medical certificate the following provisions shall apply to him:—
 - (i.) He or she shall not be the husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner or assistant of the petitioner or of either of the persons who gave the medical certificates.
 - (ii.) The preceding sub-section (g) shall apply as if he or she had signed one of the medical certificates.

38. The documents upon which an Order is founded shall be attached to the Order, and the Order and documents shall be delivered or sent by post to the petitioner, and shall be delivered by him or his agent to the superintendent of the Institution or certified House into which the defective is to be received or to the person appointed to be his guardian.

39. An Order made upon a Petition, if the same appears to be in conformity with this Act, shall be sufficient authority for the petitioner, or any person authorised by him, to take the defective and convey him to the place mentioned in such Order, and for the defective's reception and detention therein, and the Order may be acted on without further evidence of the signature or of the jurisdiction of the person making the Order.

40. At any time before an Order has been executed, the Judicial Authority who made it, or, if he is not available, any other Judicial Authority, may, on being satisfied that it is necessary or expedient so to do, revoke the Order, or may vary the same by substituting another Institution or certified House for the Institution or certified House, or another guardian for the guardian named in the Order; and an Order so varied shall take effect as if the substituted Institution, certified House, or guardian had been originally named therein.

41.—(1) When a patient has been received under an Order into an Institution or certified House or under guardianship—

- (a) If the Order or any document upon which the same is founded be found to be in any respect incorrect or imperfect it may, with the sanction of a Commissioner, be amended or supplemented within fourteen days from the reception of the patient.
- (b) If the Board or any two Commissioners deem the Order or any document upon which the same is founded to be incorrect or defective they may authorise such Order or document to be amended or supplemented as

they shall, by notice to the Superintendent of the Institution or certified House or to the guardian, direct. If the Order or document is not amended or supplemented in accordance with the direction so given within fourteen days or such longer period as may be allowed for the purpose, the Board or any two Commissioners may, if they think fit, make an Order for the patient's discharge.

(2) Every Order and document amended or supplemented under this section shall take effect as if the amendment or supplementary matter had been contained therein when it was signed.

42. No proceedings on a Petition shall be conducted in a police court or other court or room used for the hearing of criminal charges.

43. The forms P1 to P9 in the Schedule hereto or forms to the like effect may be used wherever applicable with such modifications as circumstances require.

THE GRANTING, TRANSFER, RENEWAL, REVOCATION AND RESIGNATION OF CERTIFICATES FOR CERTIFIED INSTITUTIONS AND CERTIFIED HOUSES FOR DEFECTIVES.

44. Applications for the granting, transfer, or renewal of a Certificate for a certified institution or for a certified house for the reception, control, detention, care, treatment and training of defectives shall be signed by the managers or owner or by some person authorised on their behalf, and should be sent to the Secretary of the Board of Control.

45. Applications for the granting of Certificates should give, with respect to the certified institution or certified house, the following particulars:—

- (1) The name and locality of the proposed institution or house; and the persons, incorporated or unincorporated body, society or association who are to be the managers of the certified institution or certified house.
- (2) An exact description and plan of the site of the certified institution or certified house, and of the land occupied in connection with or annexed to it, and particulars of the estate or interest of the managers or owner therein.
- (3) Detailed descriptions and plans of the buildings drawn upon a scale of 16 feet to 1 inch, showing the area, height, arrangement and proposed use of the rooms (distinguishing those to be occupied by the patients from those of the officers and servants), the workshops, external offices and conveniences, baths, fire escapes, heating, lighting, ventilation and sanitary arrangements; also a plan of the drains and a statement as to the mode of disposal of the sewage and as to the water supply.
- (4) A statement of the quantity of land, not covered by the certified institution, certified house or buildings, which

is occupied in connection with or annexed to them, and appropriated to the use, exercise and recreation of the patients, and of the character of the land.

- (5) The number of patients whom it is proposed to receive, if of both sexes, the number of each sex and a statement of the means by which the sexes are to be kept apart. If the patients are to be limited to any particular type of defective or class or age or to defectives sent from any particular locality, or belonging to any particular religious persuasion, exact information as to the restrictions proposed must be given.
- (6) The name of the superintendent (*i.e.*, the resident head of the certified institution or certified house), with particulars of the staff whom it is proposed to employ, and of the arrangements proposed for the medical care of the patients.
- (7) A statement respecting the work upon which the patients are to be employed and the arrangements for affording them simple education and industrial training.

46. An application for a Certificate shall be deemed to be an undertaking on the part of the managers or owner to feed, clothe, maintain and suitably educate, train and employ any patient received by them in accordance with the provisions of this Act and the Regulations made thereunder so long as the patient remains in the certified institution or certified house.

47. The Board may, on application, if they think fit, by writing under their seal endorsed on the Certificate, transfer the Certificate with all the privileges and obligations annexed thereto to such persons as the Board approve. An application for the transfer of a Certificate should contain the like particulars with regard to the proposed transferees as are required in the case of applicants for a Certificate.

48. A Certificate for a certified institution shall be granted for such period not exceeding ten years as the Board may determine, and for a certified house for such period not exceeding thirteen months as the Board may determine: provided that the Board, if dissatisfied with the condition or management of any certified institution or certified house, may at any time by notice under their seal served upon the managers or owner prohibit the reception by them of defectives of all or any descriptions until the notice is revoked.

49. The Board may, by an instrument under their seal, revoke or modify the terms and conditions of any Certificate granted by them.

No revocation or modification of a Certificate shall be ordered until the managers or owner have had an opportunity of laying before the Board a statement of their reasons against such a step being taken.

50. A revocation shall take effect at a date to be named in the instrument of revocation not more than two months from the time when a copy or notice thereof has been published in the

London Gazette, and unless the revocation is withdrawn the certified institution or certified house shall at that date cease to be a certified institution or certified house.

51. A copy or notice of the instrument of revocation shall be published in the London Gazette and shall, before publication, be posted to the managers or owner of, or be left at, the certified institution or certified house affected.

52. The managers or owner may at any time resign a Certificate, but such resignation shall not take effect until accepted by the Board who will require to be satisfied that proper arrangements have been made for the accommodation, care, treatment, control and detention of the patients of the certified institution or certified house.

53. If one of the joint managers of a certified institution or one of the joint owners of a certified house dies the Certificate with its privileges and obligations shall pass to the survivor or survivors: provided that if the manager or owner so dying is the superintendent, arrangements are made to the satisfaction of the Board for the performance of his duties by another superintendent: provided also that in the case of a certified institution a Certificate may, if the Board think fit, be granted to the managers for the time being and to the persons who shall be the managers from time to time during the currency of the Certificate, and if so granted shall take effect accordingly. If the sole manager or owner dies the Certificate may be transferred as provided by Regulation 47.

54. An application for the renewal of a Certificate in respect of a certified institution or certified house shall be made at least six weeks before the expiration of the Certificate and shall in the case of a certified house be accompanied by a statement signed by the applicant containing the number of patients of each sex.

55. Before any alteration or addition is made in or to any certified institution or certified house or its appurtenances the managers or owner shall send notice in writing of the proposed alteration or addition to the Board. Such notice shall be accompanied by full descriptions of the proposed alteration or addition with plans drawn to a scale of 16 feet to 1 inch.

The use of any part of the premises for a purpose different from that contemplated in the Certificate shall be deemed to be an alteration within the meaning of this paragraph.

56. No such alteration or addition as is in the last preceding Regulation referred to shall be made in or to any certified institution or certified house without the previous consent in writing of the Board.

57. The Certificate of a certified institution or certified house may include any premises wherever situate ancillary to any of the purposes of, or used in connection with, the certified institution or certified house.

58. Within two months from the expiration or revocation of the Certificate of a certified institution or certified house all the patients therein shall be removed.

59. The powers of the Board and Visitors with reference to any certified institution or certified house and the patients therein and all powers and provisions of the Act and the Regulations thereunder having reference to the discharge, removal and transfer of the patients, shall, after the expiration or revocation of the Certificate, continue in force so long as any patients remain therein.

60. If the managers of a certified institution or the owners of a certified house, except with the consent of the Board, receive any patients beyond the number specified in the Certificate, or retain any patient more than two months after the expiration or revocation of the Certificate, or fail to comply with the conditions of the Certificate as to the sex of the patients or the class of patients, they or he shall for each patient received or allowed to remain contrary to the conditions of the Certificate be liable to a penalty not exceeding £50.

61. These regulations shall apply to premises provided by a board of guardians, which have been approved or in respect of which an application for approval has been made by a local authority under Section 37 of the Act as if such premises were an institution; and as if the term "certificate" included an approval of such premises granted by the Board under that section.

62.—(1) For any Certificate, or renewed Certificate, for a certified house there shall be paid to the Secretary of the Board, a fee of £5 and in addition the sum of 10s. for every patient beyond the number of ten.

(2) If the period for which the Certificate is granted is less than 13 months, the Board may reduce the payment.

(3) The payment for a Certificate for a new certified house granted upon the transfer of patients from a certified house, shall be not less than £1 10s.

(4) No Certificate shall be delivered until the sum payable for the same has been paid.

63. The forms C1 to C10 in the Schedule hereto or forms to the like effect may be used with such variations as circumstances require, for the purposes of these regulations.

THE GRANTING, RENEWAL AND REVOCATION OF APPROVALS OF HOMES FOR DEFECTIVES.

64. An application for the approval of any premises as an approved home for the reception, control, care, treatment and training of defectives should be signed by the managers or owner or some person authorised on their behalf and should be sent to the Secretary of the Board of Control and should give the following particulars:—

- (1) The name and situation of the proposed home and whether (i) it is conducted for private profit; (ii) the patients are supported wholly or partly by voluntary

contributions, or by applying the excess of payments of some patients for or towards the support of other patients.

- (2) The persons, incorporated or unincorporated body, society or association who are the managers or owner of the approved home.
- (3) An exact description and plan of the site of the approved home, and particulars of the estate or interest of the managers or owner therein.
- (4) Detailed descriptions and plans of the buildings drawn upon a scale of at least 16' to 1", showing area, height, and arrangement of rooms (distinguishing those to be occupied by the patients from those of the officers and servants), the workshops, external offices and conveniences, baths, fire escapes, heating, lighting, ventilation and sanitary arrangements; also a plan of the drains, and a statement as to the mode of disposal of the sewage, and as to the water supply.
- (5) If the approved home forms part of a hospital, institution or licensed house within the meaning of the Lunacy Acts, or of an Institution under the Mental Deficiency Act, the plans should clearly show the exact portion of the premises it is proposed should be approved as a home and how, if deemed necessary, such portion is or can be shut off and separated from the rest of the building.
- (6) A statement of the quantity of land not covered by the house or buildings which is occupied in connection with or annexed to them and appropriated to the use, exercise and recreation of the patients residing in the home, and of the character of the land.
- (7) The number of patients whom it is proposed to receive, if of both sexes, the number of each sex and a statement of the means by which the sexes are to be kept apart, and if the house is not to be conducted for private profit, whether it is proposed to receive any, and how many, aided patients.
- (8) The name of the superintendent (that is the resident head of the house) with particulars of the staff whom it is proposed to employ, and the arrangements proposed for the medical care of the patients.
- (9) A statement respecting the work upon which the patients are to be employed and the arrangements for affording them simple education and industrial training.

65. An application for an approval of premises as an approved home shall be deemed to be an undertaking on the part of the managers or owner to feed, clothe, maintain and suitably educate, train and employ, any patient received by them in accordance with the provisions of this Act and the Regulations made thereunder so long as the patient may remain in the home.

66. The Board may on application, if they think fit, by writing under their seal endorsed on the approval, transfer the approval with all the privileges and obligations annexed thereto to such

person or persons as the Board may approve. An application for the transfer of an approval shall contain the like particulars with regard to the proposed transfer as are required in the case of an application for an approval.

67. In the case of a home not conducted for profit the approval shall be granted for such period not exceeding 10 years as the Board may determine, and in the case of a home conducted for profit for such period not exceeding 13 months as the Board may determine; provided that the Board, if dissatisfied with the condition or management of the home, may at any time by writing under their seal served on the managers or owner, prohibit the reception of defectives of all or any descriptions until the notice is revoked.

68. The Board may by an instrument under their seal revoke or modify the terms and conditions of any approval for a home granted by them. No revocation or modification of an approval shall be ordered until the managers or owner have had the opportunity of laying before the Board a statement of their reasons against such a step being taken.

69. A revocation shall take effect at a date to be named in the instrument of revocation not more than two months from the time when a copy or notice thereof has been published in the London Gazette.

70. A copy of the notice or instrument of revocation shall be published in the London Gazette and shall before publication be posted to the managers or owner or left at the home.

71. The managers or owner may at any time resign an approval but such resignation shall not take effect until accepted by the Board, who will require to be satisfied that proper arrangements have been made for the accommodation, care, treatment and control of the patients.

72. If one of the joint managers or owners of an approved home dies, the approval with its privileges and obligations shall pass to the survivor or survivors, provided that if the manager or owner so dying is the superintendent, arrangements are made to the satisfaction of the Board for the performance of his duties by another superintendent: if the sole manager or owner dies the approval may be transferred as provided by Regulation 66.

73. An application for the renewal of an approval in respect of an approved home shall be made at least six weeks before the expiration of the approval and shall be accompanied by a statement signed by the applicant giving the number of patients of each sex.

74. Before any alteration or addition is made in or to an approved home or its appurtenances the managers or owner shall send notice in writing of the proposed alteration or addition to the Board. Such notice shall be accompanied by full descriptions of the proposed alteration or addition with plans drawn to scale of at least 16' to 1". The use of any part of an approved home for a purpose different from that for which it was approved shall be deemed to be an alteration within the meaning of this paragraph.

75. No alteration or addition as in the last preceding regulation referred to shall be made in or to any approved home without the previous consent in writing of the Board.

76. An approval of a home may include any premises ancillary to any of the purposes of or used in connection with the home.

77.—(1) For every approval for a home conducted for private profit there shall be paid to the Secretary of the Board a fee of £5 and in addition the sum of 10s. for every patient beyond the number of ten.

(2) If the period for which the approval is granted is less than 13 months the Board may reduce the payment.

(3) The payment for an approval for a new approved home granted upon the transfer of patients from an approved home shall be not less than £1 10s.

(4) No approval shall be delivered until the sum payable for the same has been paid.

78. If the managers or owner of an approved home, except with the consent of the Board, receive any patients beyond the number specified in the approval or retain any patient more than two months after the expiration or revocation of the approval or fail to comply with the conditions of the approval as to the sex and class of the patients, he shall for each patient received or allowed to remain contrary to the approval or the regulations be liable to a fine not exceeding £50.

79. The forms A1 to A4 in the Schedule hereto or forms to the like effect may be used, with such variations as circumstances require, for the purposes of these regulations.

THE MANAGEMENT OF CERTIFIED INSTITUTIONS, CERTIFIED HOUSES, AND APPROVED HOMES.

(GENERAL REGULATIONS.)

I. Classification and Treatment.

80. The patients shall be classified generally according to their age, sex, capabilities, their habits and behaviour. Epileptics who have frequent fits shall be accommodated separately.

The arrangements for the classification and the separation of the sexes shall be submitted to the Board and when approved by them shall be observed.

81. The Institution and House Rules shall provide for:—

1. Outdoor exercise, and regular walks.
2. Frequent instruction and physical drill.
3. Employment in appropriate and useful work.
4. Instruction in school for the younger patients, especial regard being paid to training for hand and eye.
5. Separating as far as possible the younger from the older patients.
6. Methods to counteract the patients' tendency to evil and perverted habits.

82. It shall not be lawful to employ any male person in the personal custody or restraint of any female patient. This shall not prohibit the employment of male persons on such occasions of urgency as may, in the judgment of the superintendent, render such employment necessary, but the superintendent shall in each case report the employment to the Commissioners, Inspectors, Committee, or Visitors at their next visit.

83. No part of any Certified Institution, Certified House or Approved Home shall, without the consent of the Board, be used for any purpose other than that for which it was specially intended and certified.

84. If complaints are made by persons, resident in the neighbourhood of a Certified Institution, Certified House or Approved Home, that the patients are allowed to go outside the Certified Institution, Certified House or Approved Home without a sufficient number of officers to control them, or that the patients are allowed to wander at large without any control, the Board may, if they are satisfied that there are *prima facie* grounds for such complaints, inquire into the same, and make such order in relation thereto as the Board think fit.

85.—(1) Mechanical means of bodily restraint shall not be applied to any patient unless the restraint is necessary for the purposes of surgical or medical treatment, or to prevent the patient from injuring himself or others.

(2) In every case where such restraint is applied a medical certificate shall, as soon as it can be obtained, be signed, describing the mechanical means used, and stating the grounds upon which the certificate is founded.

(3) The certificate shall be signed by the medical officer or the medical attendant as the case may be.

(4) A full record of every case of restraint by mechanical means shall be kept from day to day; and a copy of the records and certificates shall be sent to the Board at the end of every quarter.

(5) In the application of this Regulation "mechanical means" shall be such instruments and appliances as the Board may approve.

86. A record shall be kept of all seclusion adopted in the treatment of patients.

(Seclusion is the enforced isolation of a patient by day between the hours of 7 a.m. and 7 p.m., by the closing by any means whatsoever of the door of the room in which the patient is.)

87. In no case shall corporal punishment be administered to any patient.

II. *Records to be kept.*

88. The Superintendent of every Certified Institution, Certified House or Approved Home, shall keep, or cause to be kept, in such form as the Board may from time to time direct—

- (a) a register of admissions;
- (b) a register of removals, transfers, discharges and deaths;
- (c) a register of mechanical restraint;
- (d) a case book;
- (e) a medical register when the Board so direct.

A Visitors' Book and a Patients' Book shall also be provided.

89. The Medical Officer to the Certified Institution, Certified House or Approved Home, or an Assistant Medical Officer, shall keep a Medical Journal in the form prescribed by the Board, in which entries shall be made once in every week, or, in a Certified Institution, Certified House or Approved Home where the Medical Officer is non-resident and his visits are permitted at more distant intervals than once a week, at each visit.

90. Until the Board otherwise direct, the register of patients, the register of removals, transfers, discharges and deaths, the register of mechanical restraint and the Medical Journal shall be respectively in the forms R1 to R13 in the Schedule hereto.

91. The Superintendent of every Certified Institution, Certified House and Approved Home shall, immediately on the reception of a person as a defective, make an entry with respect to such patient in the register of admissions according to the form prescribed therein and containing the particulars therein specified, except as to the form of mental disorder and the bodily condition. The entries as to the form of mental condition and the bodily condition shall be supplied by the Medical Officer of every certified Institution, Certified House and Approved Home within seven days after the reception of a patient.

92. Within seven days after the admission of a patient there shall be entered in the case book for patients the following particulars:—

A statement of the name, age, date of birth, sex and previous occupation of the patient, and whether married, single or widowed, and a copy of the statement of facts contained in the medical certificates accompanying the reception order.

A statement of the mental and physical condition of the patient.

Every particular that has been obtained respecting the previous history of the patient, and his family.

Subsequent entries shall be made at least twice a year, and all special circumstances affecting the patient, and all information obtained as to his family history, shall be recorded.

Those entries which are of a purely medical character shall be made by the Medical Officer, but other entries may be made by the Superintendent or by some competent person deputed by him.

93. The Superintendent of every Certified Institution, Certified House and Approved Home shall within two clear days after the removal, discharge, death or transfer from the private to the aided class, or *vice versâ*, of any patient, make an entry thereof in the register of admissions, and also in the register of removals, transfers, discharges, and deaths, according to the form prescribed therein respectively, and in the case of death an entry shall be made also in the Medical Journal by the Medical Officer.

The Superintendent of every Certified Institution and Approved Home receiving aided patients, shall, half-yearly, on the 1st day of January and the 1st day of July, send to the Local Authority and to the Guardians of every union a statement of the mental and bodily condition of every aided defective chargeable to the Local Authority or to the union.

III. *Notices and Copies of Reports.*

94. The Superintendent of every Certified Institution, Certified House and Approved Home shall send, or cause to be sent, to the Board the following written notices and copies of reports:—

- (a) Notice within seven days of any change among the assistant medical officers.
- (b) Notice within two clear days after the dismissal for misconduct of any person employed.
- (c) Notice within fourteen days giving a list made up to the 1st of January and the 1st of July in every year of all the patients with the rates of payment.
- (d) Notice within seven days of the admission of a patient together with a medical statement to be made and signed by the medical officer of the Certified Institution or Certified House together with copies of the order by which the patient was sent and of the documents on which the same was founded, or if the patient was placed in the Certified Institution or Certified House by his parent or guardian copies of the statement by the parent or guardian and of the certificates: and in the case of persons not dealt with under the Act such notice as the Board may require.
- (e) Immediate notice of any patient's mental condition becoming such that he ought to be transferred to an Institution for lunatics.
- (f) Notice within two clear days of the removal, discharge, transfer to an Institution for lunatics, escape or recapture of a patient.
- (g) Immediate notice of the outbreak of any infectious disease and its nature.
- (h) Within two clear days copies of every entry made in the visitors' book or patients' book by any Commissioner or Commissioners, Inspector or Visitors.
- (i) If required, correct copies of all the entries, or of any particular entries or entry, in any official book relative to any specified patient who is, or may have been, resident.
- (j) Not more than one month nor less than fourteen days before the expiration of the order or authority under which a patient is detained, the special reports and certificate required under sections 11 and 12 of the Act for the continuance of the order or authority and any report that may have been made under those sections by a medical practitioner at the request of the patient's parent, guardian, relative or friend.
- (k) At the end of every quarter a copy of every entry made in the register of mechanical restraint during the quarter.
- (l) Notice of any other matter as the Board may from time to time direct.

All notices and reports shall be made in a manner so clear and distinct as to admit of being easily referred to and extracted whenever the Board shall so require, and all notices shall be sent on white paper of foolscap size.

95. The superintendent shall within 48 hours of the death of a patient send, or cause to be sent, a notice of such death together with a statement relating thereto

- (a) To the Board; together with a copy of any letter to the coroner supplementary to the notice;
- (b) To the relative or one of the relatives named in the statement accompanying the order for the reception of the patient, or, if none be known, to the person named for the purpose in such statement;
- (c) To the registrar of deaths for the district;
- (d) To the coroner of the district;
- (e) To the clerk of any local authority, guardians, or any other public body responsible for the payments for such patient's maintenance.

96. The Superintendent of a Certified Institution or a Certified House shall when any patient attains the age of twenty-one years send or cause to be sent within seven days to the Board and to the visitors notice in writing of such fact.

97. The Superintendent of a Certified House shall send or cause to be sent notice of the death of a patient as ordered in Regulation 2.

- (a) To the clerk to the Visitors;
- (b) To the person upon whose petition the order for the admission of the patient was made or who made the last payment on account of the patient;
- (c) To the clerk to the guardians of the poor of the union to which the patient was chargeable.

IV. Correspondence.

98. The Superintendent of every Certified Institution, Certified House and Approved Home shall forward unopened all letters written by any patient and addressed to the Lord Chancellor, to a Secretary of State or to the Commissioners or any Commissioner or to the person who placed him in a Certified Institution, Certified House or Approved Home, or on whose petition an order for his reception was made or to any Visitors or Visitor or to the Committee for the Care of the Mentally Defective of any Local Authority who have established or contributed to the establishment of the Institution where the patient is resident, and may also at their or his discretion forward to its address any other letter if written by a patient, provided that no such letters shall be forwarded to persons other than those to whom they are addressed.

Every Superintendent of a Certified Institution, Certified House or Approved Home who makes default in complying with the obligation imposed on him by the foregoing regulation shall for each offence be liable to a penalty not exceeding £20.

99. Patients shall be allowed to write letters at reasonable intervals, but, except as is hereinbefore provided, every letter to or from a patient may be read by such Superintendent, and if the contents are objectionable or if it is considered undesirable that intercourse should be maintained between the patient and the person to whom the letter is addressed or from whom it is received it shall not be forwarded or delivered. But all such letters shall be retained and produced on request to any Commissioner, Inspector or Visitor. Provided that any such letters so retained may be destroyed after the lapse of one month from the last visit of a Commissioner, Inspector or Visitor.

100. No patient in a Certified Institution, Certified House or Approved Home shall be permitted to sign any legal document brought or sent to him without the consent of the Superintendent.

101. Whenever the Board think fit there shall be posted up in every Certified Institution, Certified House and Approved Home printed notices setting forth:—

1. The right of every patient to have any letter written by him forwarded in pursuance of the previous regulation.
2. The right of every patient to request a personal and private interview with a Commissioner, Inspector or Visitor at any visit made to the Certified Institution, Certified House or Approved Home.
3. The notices shall be posted in such a position that every inmate may be able to see them.
4. The Visiting Commissioners may give directions as to the places in which such notices are to be posted.
5. If any Superintendent of a Certified Institution, Certified House or Approved Home make default in posting such notices and does not within ten days carry out any directions as aforesaid as to such notices he shall for each offence be liable to a penalty not exceeding £20.

V. Visits.

102. Visits by the nearest adult relative or the guardian who is entitled under the statute to visit a patient in a Certified Institution or Certified House and visits by relatives and other persons to a patient in a Certified Institution, Certified House or Approved Home shall, so far as is consistent with the due administration of the Institution, House or Approved Home, be encouraged and shall be permissible at such reasonable times and under such conditions as may, with the approval of the Board, be prescribed by the Superintendent.

103. The special consent of the Superintendent shall be required in each case of visits to patients by solicitors, officers of the law and other persons in connection with business transactions.

104. If there be reasonable ground for suspecting that any person visiting a patient is exercising a bad influence on him or encouraging him to break the rules of the Superintendent, his visit may be suspended and he may be removed from the premises.

105. In any case where, owing to the character and antecedents of the person proposing to visit a patient, such a visit would, in

the opinion of the Superintendent, be contrary to the interests of the patient a report to that effect shall forthwith be sent to the Board and such visit shall not be allowed unless the Board shall make an order granting permission to visit.

106. Any one of the Commissioners may at any time give an order in writing under his hand for the admission of any person to visit any patient in a Certified Institution or a Certified House. The order of admission may be either for a single admission, or for an admission for a limited number of times, or for admission generally at all reasonable times and with or without restriction as to the presence of an attendant or otherwise.

107. If the Superintendent refuses, prevents or obstructs the admission to any patient of any person who produces any such order of admission he shall for every offence be liable to a penalty not exceeding £20.

THE MANAGEMENT OF CERTIFIED INSTITUTIONS PROVIDED BY
LOCAL AUTHORITIES.

(SPECIAL REGULATIONS.)

108. The Committee for the care of the mentally defective shall manage the Institution, subject to such direction as they may receive from the Local Authority.

109. The Committee shall keep the Institution in proper repair and condition and see that no part of it is used for purposes other than those for which it is approved.

110. The Committee shall be responsible for seeing that the patients received in the Institution are properly fed, clothed, trained, and employed, and that the provisions of the Act and of the Regulations made thereunder, and the conditions of the certificate are observed.

111. The Committee shall regularly and frequently visit and inspect the Institution. At least two members shall together, once in every two months, inspect every part of the Institution and see every patient therein, so as to give everyone, as far as possible, full opportunity of complaint.

112. The Committee shall at their bi-monthly visit also examine the order and certificate or certificates for the admission and for the continued detention of every patient made or given since the last visitation, as well as the general books kept in the Institution, and enter in the visitors' book any remarks they think proper in regard to the condition and management of the Institution and the patients therein, and sign the book upon every visit.

113. The Committee shall in every year lay before the Local Authority, at such time as the Local Authority may appoint, a report in writing of the state and condition of the Institution, as to its sufficiency to provide the accommodation required by the Local Authority, as to its management, and the conduct of the officers and servants, and the care of the patients therein, and shall send a copy of the Report to the Board.

114. The Committee shall previously to the month of June in every year, examine the accounts of the Institution, made up to the 31st of March in each year, and report the same to the next meeting of the Local Authority.

115. The Committee shall within six months after the certification of the Institution prepare and submit to the Board rules for the government of the Institution, and such rules, when approved by the Board, with such modifications and additions as the Board may deem advisable, shall be printed and observed. No alterations shall be made in the Rules without the approval of the Board. These rules shall be known as "Institution Rules." Such additions and modifications shall from time to time be made in the Institution Rules as the Board may deem expedient.

116.—(1) The Committee shall appoint a superintendent who shall be in charge of, and who must be resident in, the Institution. The Board may by order in writing direct that the superintendent shall be a qualified medical practitioner.

(a) In the event of the superintendent not being a qualified medical practitioner the Committee shall appoint a non-resident medical officer, who shall visit the Institution at least once in every week and, in addition, as often as the Committee may, from time to time, by resolution direct, and make such reports as are required of him.

(b) In the event of a resident medical officer being appointed he shall, if the Board so direct, be the superintendent of the Institution.

(c) The superintendent shall have paramount authority in the Institution, subject to that of the Committee, and shall have control over all the officers (excepting the non-resident medical officer), attendants, and servants, including the power of suspension, and shall superintend and direct their duties as prescribed by the Committee.

(d) The superintendent shall not be dismissed without the consent of the Board.

(2) The Committee shall appoint such other officers and servants as to the Board may seem necessary.

117. The Committee shall fix the salaries, wages, and remuneration of every person appointed, but subject to any directions that may be given by the Local Authority.

118. The Committee shall issue written Instructions (not inconsistent with the Institution Rules) setting forth the description of officers and servants and their respective duties.

119. The Committee shall submit to the Board the arrangements which they propose for the holding of religious services and for securing so far as is practicable that religious services shall be held for, and religious instruction given to, the patients according to their religious persuasion and such arrangements as are approved by the Board shall be observed.

120. The Committee shall determine the diet of the patients subject to any directions which may be given by the Board.

121. The Committee shall carry out the Regulations with respect to the issue, expenditure and accounting for the Government grant.

122. Patients wholly maintained out of private funds may be received in the Institution, and the Local Authority may, if they think fit, provide special accommodation for them.

THE MANAGEMENT OF CERTIFIED INSTITUTIONS PROVIDED BY AN INCORPORATED OR UNINCORPORATED BODY, SOCIETY OR ASSOCIATION HEREINAFTER CALLED THE "MANAGERS."

(SPECIAL REGULATIONS.)

123. The managers shall manage the Institution through a Committee appointed by them consisting of such number not less than seven as the Board may approve.

124. The Committee shall keep the Institution in proper repair and condition and shall see that no part of it is used for other purposes than those for which it has been approved.

125. The Committee shall be responsible for seeing that the patients received in the Institution are suitably and properly fed, clothed, trained and employed, and that provisions of the Act and of the Regulations made thereunder and of the certificate are observed.

126. The Committee shall carry out the Regulations with respect to the issue, expenditure and accounting for the Government contribution.

127. The Committee shall regularly and frequently visit and inspect the Institution. They or at least two of their number, nominated by them, shall make inspections of the Institution once in every fortnight, and at least two members shall together, once in every two months, inspect every part of the Institution and see every patient therein, so as to give everyone, as far as possible, opportunity of complaint.

128. The Committee at their bi-monthly visit shall also examine the order and certificate or certificates for the admission and for the continued detention of every patient since the last visitation as well as the general books kept in the Institution, and shall enter in the visitors' book any remarks they think proper in regard to the condition and management of the Institution and the patients therein, and shall sign the book upon every visit.

129. The Committee shall in every year lay before the managers, at such time as the managers may appoint, a report in writing of the state and condition of the Institution, as to its sufficiency to provide the accommodation required by the managers, as to its management, and the conduct of the officers and servants, and the care of the patients therein, and shall send a copy of the Report to the Board.

130. The Committee shall within six months after the certification of the Institution prepare and submit to the Board rules for the government of the Institution, and such rules, when approved by the Board, with such modifications and additions as the Board may deem advisable, shall be printed and observed. No alterations shall be made in the Rules without the approval of the

Board. These rules shall be known as "Institution Rules." Such additions and modifications shall from time to time be made in the Institution Rules as the Board may deem expedient.

131.—(1) The Committee shall appoint a superintendent who shall be in charge of, and who must be resident in, the Institution. Before the appointment is made they shall submit to the Board for their approval the name and qualifications of the person whom they propose to appoint, and the Board may by order in writing direct that the superintendent shall be a qualified medical practitioner.

(a) In the event of the superintendent not being a qualified medical practitioner the Committee shall appoint a non-resident medical officer, who shall visit the Institution at least once in every week and, in addition, as often as the Committee may from time to time by resolution direct, and make such reports as are required of him.

(b) In the event of a resident medical officer being appointed he shall, if the Board so direct, be the superintendent of the Institution.

(c) The superintendent shall have paramount authority in the Institution, subject to that of the Committee, he shall have control over all the officers (excepting the non-resident medical officer), attendants and servants, including the power of suspension, and shall superintend and direct their duties as prescribed by the Committee.

(d) The superintendent shall not be dismissed without the consent of the Board.

(2) The Committee shall also appoint such other officers and servants as to the Board may seem necessary.

132. The salaries, wages, and remuneration of every person appointed shall be fixed by the Committee but shall, if the Board see fit in any instance to direct, be subject to the approval of the Board.

133. The accounts of the Institution shall be audited once a year by an accountant or other auditor to be approved by the Board.

134. The Board may, if they think fit, prescribe the form in which the accounts of the Institution shall be kept, and the day of the year to which they are to be made up.

135. The Committee shall within one calendar month next after the accounts shall have been audited send to the Board an abstract of the accounts in such form as the Board shall from time to time prescribe.

136. The Committee shall issue written instructions (not inconsistent with the Institution Rules) setting forth the description of officers and servants and their respective duties.

137. The Committee shall submit to the Board the arrangements which they propose for the holding of religious services and for securing as far as is practicable that religious services shall be held for, and religious instruction given to, the patients according to

their religious persuasion, and such arrangements as are approved by the Board shall be observed.

138. The Committee shall determine the diet of the patients subject to any directions which may be given by the Board.

139. The Board shall have power, if the circumstances are such as in their opinion to require it, to insist on the appointment of a Supervisory Committee consisting of such number (not less than seven) as the Board may approve. The managers may appoint themselves as members of the Supervisory Committee, and at least one member shall also be nominated by each of the following authorities :—

(a) The Local Authority for the care of the mentally defective in the district in which the Institution is situated.

(b) The local Board of Guardians.

(c) The Court of Petty Sessions in the district in which the Institution is situated.

and by such other authorities, if any, as the Board may approve, in addition to or in lieu of the aforesaid.

140. The names of the Supervisory Committee shall in all cases be notified to the Board of Control, the Visitors, and every Local Authority maintaining cases in the Institution.

141. The Supervisory Committee shall meet at the Institution at least every month or at such longer intervals as the Board may assent to in a particular case; and any two of them may together visit the Institution or any part thereof and see any patient at any time.

142. The Supervisory Committee shall have such powers as will enable them to acquaint themselves with the details of the management and conduct of the Institution, of the treatment of the patients, especially with regard to their diet and clothing, of the sufficiency of the staff in numbers and qualifications, and of the due expenditure of public money received by the managers.

143. The Supervisory Committee, or any one or more of its members, shall record in the Visitors' or Patients' book any recommendations which they feel called upon to make, and shall report forthwith to the Board any matter which they consider calls for immediate attention.

THE MANAGEMENT OF CERTIFIED INSTITUTIONS PROVIDED BY ONE OR MORE PRIVATE INDIVIDUALS HEREINAFTER CALLED THE "MANAGERS."

(SPECIAL REGULATIONS.)

144. The managers shall keep the Institution in proper repair and condition and shall see that no part of it is used for other purposes than those for which it has been approved.

145. The managers shall be responsible for seeing that the patients received in the Institution are suitably and properly fed, clothed, trained, and employed, and that the provisions of the Act and of the regulations made thereunder and of the certificate are observed.

146. The managers shall carry out the Regulations with respect to the issue, expenditure, and accounting for the Government grant.

147.—(1) The accounts of the Institution shall be audited once a year by an accountant or other auditor to be approved by the Board.

(2) The Board may, if they think fit, prescribe the form in which the accounts of any certified Institution are to be kept, and the day of the year to which they are to be made up.

148. The managers shall within one calendar month next after the accounts shall have been audited send to the Board an abstract of the accounts in such form as the Board shall from time to time prescribe.

149. The managers shall within six months of the certification of the Institution prepare and submit to the Board Rules for the government of the Institution, and such rules with such modifications and additions as the Board may deem advisable shall, after being approved by the Board, be printed and observed. These rules shall be known as "Institution Rules."

150. Such additions and modifications shall from time to time be made in the Institution Rules as the Board may deem expedient.

151.—(1) The managers shall appoint a superintendent who shall be in charge of, and who must be resident in, the Institution. Before the appointment is made they shall submit to the Board for their approval the name and qualifications of the person whom they propose to appoint, and the Board may by order in writing direct that the superintendent shall be a qualified medical practitioner.

(a) In the event of the superintendent not being a qualified medical practitioner the managers shall appoint a non-resident Medical Officer, who shall visit the Institution at least once in every week, and, in addition, as often as the Supervisory Committee (to be appointed in pursuance of Regulation No. 156 below) may, by resolution, direct, and make such reports as are required of him.

(b) In the event of a resident medical officer being appointed he shall if the Board so direct be the superintendent of the Institution.

(c) The superintendent shall have paramount authority in the Institution, subject to that of the managers and the Board, and shall have control over all the officers (excepting the non-resident medical officer), attendants, and servants, including the power of suspension, and shall superintend and direct their duties as prescribed by the managers.

(d) The superintendent shall not be dismissed without the consent of the Board.

(2) The Managers shall appoint such other officers and servants as to the Board may seem necessary.

152. The salaries, wages, and remuneration of every person appointed shall be fixed by the managers, but shall, if the Board see fit in any instance to direct, be subject to the approval of the Board.

153. The Managers shall issue written Instructions (not inconsistent with the Institution Rules) setting forth the description of officers and servants and their respective duties.

154. The Managers shall submit to the Board the arrangements they propose for the holding of religious services and for securing, as far as is practicable, that religious services shall be held for, and religious instruction given to, the patients according to their religious persuasion, and such arrangements as are approved by the Board shall be observed.

155. The Managers shall determine the diet of the patients subject to any directions which may be given by the Board.

156. The Managers must appoint a Supervisory Committee consisting of such number (not less than seven) as the Board may approve. The Managers may appoint themselves as members of the Supervisory Committee, and at least one member shall also be nominated by each of the following authorities:—

- (a) The Local Authority for the care of the mentally defective in the district in which the Institution is situated.
- (b) The local Board of Guardians.
- (c) The Court of Petty Sessions in the district in which the Institution is situated.

and by such other authorities, if any, as the Board may approve, in addition to or in lieu of the aforesaid.

157. The names of the Supervisory Committee shall in all cases be notified to the Board of Control, the Visitors, and every Local Authority maintaining cases in the Institution.

158. The Supervisory Committee shall meet at the Institution at least every month or at such longer intervals as the Board may assent to in a particular case; and any two of them may together visit the Institution or any part thereof and see any patient at any time.

159. The Supervisory Committee shall have such powers as will enable them to acquaint themselves with the details of the management and conduct of the Institution, of the treatment of the patients, especially with regard to their diet and clothing, of the sufficiency of the staff in numbers and qualifications, and of the due expenditure of public money received by the managers.

160. The Supervisory Committee, or any one or more of its members, shall record in the Visitors' or Patients' book any recommendations which they feel called upon to make, and shall report forthwith to the Board any matter which they consider calls for immediate attention.

161. The Supervisory Committee shall prepare in or before the month of June in every year an annual report relating to the condition and management of the Institution and to the care and treatment of the patients therein, and the expenditure upon their maintenance. A copy of this report should be sent to:—

- (a) The Board of Control;
- (b) The Visitors;

- (c) Every Local Authority under the Act and every other authority who have had patients under treatment in the Institution during the year.

THE MANAGEMENT OF CERTIFIED HOUSES.

(SPECIAL REGULATIONS.)

162. The resident head of the house, who may be the owner, shall, for the purposes of these regulations, be styled the superintendent.

163. There shall be hung up in some conspicuous part of every Certified House a copy of the plan given to the Board on applying for the certificate.

164.—(1) In every Certified House for one hundred patients, or more, there shall, if the Board so direct, be resident as the superintendent and medical officer thereof a medical practitioner.

(2) Every Certified House for less than one hundred and more than fifty patients not having a resident medical practitioner shall be visited daily, or at such intervals as the Board direct, by a medical practitioner.

(3) Every Certified House for less than fifty patients not having a resident medical practitioner shall be visited twice a week, or at such intervals as the Board direct, by a medical practitioner.

(4) The Visitors of any Certified House may direct that such house, and the Board may direct that any Certified House shall be visited by a medical practitioner at any other time or times, not being oftener than once a day.

165. Within three months of the date of the certificate the superintendent shall prepare and submit to the Board rules for the government of the Certified House, and such rules, when approved by the Board, with such modifications and additions as the Board think fit, shall be printed and observed. No alterations shall be made in the rules without the approval of the Board. These rules shall be known as "House Rules."

166. Such additions and modifications shall from time to time be made in the House Rules as the Board may deem expedient.

167. No building in the occupation of the superintendent not shown on the plans sent to the Board pursuant to any rules made by them shall be deemed part of the Certified House for any purpose connected with the reception or the care and treatment of patients.

168. The superintendent or any other officer of a Certified House shall give such information as the Board or any Commissioner may require as to the mode in which the House Rules are carried out, and shall furnish to the Board, at such times and in such forms as they may from time to time prescribe, such annual and other returns and information of or in any way relating to the Certified House, or the patients therein, as the Board may in their discretion require.

169. The superintendent of every Certified House shall prepare and keep up accurate lists of the patients for the time being on the books of the house, with the rates of payment made for the maintenance and care and treatment of such patients, and

such lists shall be at all times accessible to the Commissioners, Inspectors or Visitors visiting the house.

170. The superintendent shall submit to the Board the arrangements which he proposes for the holding of religious services and for securing so far as is practicable that religious services shall be held for, and religious instruction given to, the patients according to their religious persuasion, and such arrangements as are approved by the Board shall be observed.

171. The superintendent of every Certified House shall show to each Commissioner, Inspector, and Visitor visiting the same every part thereof and every person who is a patient therein.

172. The superintendent of every Certified House shall lay before the visiting Commissioners, Inspectors, or Visitors, at each visit—

(a) The several books by the Act or any rules under the Act required to be kept by the superintendent and by the medical officer :

(b) All orders and certificates relating to patients admitted since the last visit :

(c) The certificate then in force for the house :

(d) All other orders, certificates, documents, books, and papers relating to any of the patients at any time received into the house which may be required to be produced.

173. The superintendent shall produce any patient to any person who is authorized by this Act or under the Regulations to visit such patient and shall afford facilities to interview him.

THE INSPECTION OF CERTIFIED HOUSES AND THE VISITATION OF THE PATIENTS THEREIN.

174.—(a) Every certified house may at any time, by day or night, be visited by any one or more of the Commissioners or their Inspectors.

(b) The visits of the Commissioners and their Inspectors shall, unless there be reason to the contrary, be made without previous notice.

175.—(1) Every certified house may, at any time, by day or night, be visited by one or more of the Visitors.

(2) Every such house shall be visited—

(a) four times a year by not less than two of the Visitors, of whom one shall be a medical practitioner; and

(b) twice a year by one or more of the Visitors.

176.—(1) The visiting Commissioners, Inspectors and Visitors shall, at every visit to a certified house which they are by the Act or the Regulations required to make, and any one or more of the Commissioners, Inspectors or Visitors may at any other visit do all or any of the following things :—

(a) Inspect any or every part of the building where patients are received, and every building communicating therewith or detached therefrom, and every part of the ground and appurtenances, held, used or occupied therewith ;

(b) See every patient, and give to each an opportunity of making complaint ;

- (c) Inspect the order and certificates for every patient received since the last visit;
- (d) Consider the observations made in the Visitors' book and the patients' book;
- (e) Enter in the Visitors' book a minute of the condition of the house, of the patients therein, and the number of patients who have been restrained or secluded, with the reasons for such restraint or seclusion.

(f) Inquire—

When divine service is held, and what average number of patients attend;

What occupations and recreation are provided for the patients;

How the patients are classified, trained, educated and employed;

As to the diet and clothing of the patients;

As to the moneys paid to the managers on account of any patient under their care;

As to the number and qualifications of the staff and the conditions of their employment;

As to such other matters as may in their opinion require investigation.

- (g) The Visitors or Visitor shall also inquire whether any patients have recently attained or are about to attain the age of 21.

(2) The result of the foregoing inspections and inquiries, with such observations as may be thought proper, shall be entered in the Visitors' book.

(3) Each visiting Commissioner, Inspector or Visitor may at any visit enter in the patients' book such observations as he thinks fit as to the state of mind or body of any patient, and any irregularity which exists in any order or certificate, and any observations which may be thought proper.

177. The superintendent of every certified house shall lay before the visiting Commissioners or Commissioner, or the Inspector or the Visitors or Visitor, at each visit:—

- (a) A list of all the patients then in the house (distinguishing males from females):
- (b) The several books required by the Regulations to be kept by the superintendent and by the medical officer.
- (c) All orders and certificates relating to patients admitted since the last visit:
- (d) The certificate then in force for the house:
- (e) All other orders, certificates, documents, and papers relating to any of the patients at any time received into the house which may be required to be produced:
- (f) All unforwarded letters written by patients.

178. Every Commissioner or Inspector visiting a certified house shall carefully consider and give special attention to the state of mind of any patient, the propriety of whose detention has been questioned or gives rise to doubt or to whose mental condition their attention is specially called, and shall, if the state of mind of

such patient is considered doubtful, or the propriety of his detention requires further consideration, make and sign a minute thereof in the patients' book and shall report to the Board.

179.—(1) A medical practitioner appointed by the guardians of any union, and also the guardians of any union to the number of not more than five shall be permitted to visit at reasonable hours and examine any patient chargeable to the union confined in a certified house, unless the medical officer of the house delivers to the person or persons intending to make the visit a statement signed by him certifying that for the reasons set forth in the statement the visit would be injurious to the patient.

(2) The medical officer shall forthwith enter in the medical journal the reasons set forth in the statement, and shall sign the entry.

THE INSPECTION OF CERTIFIED INSTITUTIONS AND THE VISITATION OF PATIENTS THEREIN.

180. The Commissioners and their Inspectors at their visits shall inquire—

- (a) whether the Regulations made under the Act and conditions of the certificate have been carried out, and in particular—
 - (i) as to management;
 - (ii) as to the regularity of the admission and discharge of patients;
- (b) when divine service is held, and what average number of patients attend;
- (c) whether any disciplinary system is practised;
- (d) how the patients are classified, trained, educated and employed;
- (e) what occupations and recreation are provided for the patients;
- (f) as to the diet of patients;
- (g) as to the number and qualifications of the staff and the conditions of their employment;
- (h) as to such other matters as may in their opinion require investigation.

181. The Visitors shall visit the institution as often as may be necessary for the due performance of their duties under sections 11 and 12 (2) of the Act, and shall by entries in the Visitors' and patients' books record the duties they perform.

182. During the continuance of a contract made by a Local Authority with the managers of any certified institution for the reception of defectives in such institution, any two or more members of the local authority shall be permitted, together, at least once in every six months, to visit the institution and see and examine the patients received under the contract and shall report the result of their visit to the Local Authority.

183. The Secretary of State may, when, in the opinion of the Board, the circumstances are such as to render it advisable, direct

by order in writing that an institution or institutions provided by an incorporated or unincorporated Body, Society or Association or by one or more private individuals shall be visited—

- (a) four times a year by not less than two of the Visitors, of whom one shall be a medical practitioner; and
- (b) twice a year by one or more of the Visitors.

THE MANAGEMENT OF APPROVED HOMES.

(SPECIAL REGULATIONS.)

184. The resident head of an approved home shall, for the purposes of these Regulations, be styled the superintendent.

185. There shall be hung up in some conspicuous part of every approved home a copy of the plan given to the Board on applying for the certificate.

186.—(1) In every approved home for one hundred patients, or more, there shall, if the Board so direct, be resident as the superintendent and medical officer thereof a medical practitioner.

(2) Every approved home for less than one hundred and more than fifty patients not having a resident medical practitioner shall be visited daily or at such intervals as the Board direct by a medical practitioner.

(3) Every approved home for less than fifty patients not having a resident medical practitioner shall be visited twice a week or at such intervals as the Board direct by a medical practitioner.

(4) The Board may direct that any approved home shall be visited by a medical practitioner at any other time or times, not being oftener than once a day.

187. Within three months of the date of the certificate of approval the superintendent shall prepare and submit to the Board rules for the government of the home, and such rules, when approved by the Board, with such modifications and additions as the Board think fit, shall be printed and observed. No alterations shall be made in the rules without the approval of the Board. These rules shall be known as "House Rules."

188. Such additions and modifications shall from time to time be made in the House Rules as the Board may deem expedient.

189. No building in the occupation of the superintendent not shown on the plans sent to the Board pursuant to any rules made by them shall be deemed part of the home for any purpose connected with the reception or the care and treatment of patients.

190. The superintendent or any other officer of an approved home shall give such information as the Board or any Commissioner may require as to the mode in which the House Rules are carried out, and shall furnish to the Board, at such times and in such forms, as they may from time to time prescribe, such annual and other returns and information of or in any way relating to the approved home, or the patients therein, as the Board may in their discretion require.

191. Previous notice, not less than one week in advance, shall be given to the Board of any proposal to take two or more defectives to reside temporarily elsewhere than at the home for the

benefit of their health or otherwise, and the removal shall not take place until the consent of the Board under Section 51 (1) of the Act is received.

192. The superintendent of every approved home shall prepare and keep up accurate lists of the patients for the time being on the books of the home, with the rates of payment made for the maintenance and care and treatment of such patients, and such lists shall be at all times accessible to the Commissioners or Commissioner or inspector visiting the home.

193. The superintendent shall submit to the Board the arrangements which he proposes for the holding of religious services and for securing as far as is practicable that religious services shall be held for, and religious instruction given to, the patients according to their religious persuasion, and such arrangements as are approved by the Board shall be observed.

THE INSPECTION OF APPROVED HOMES AND THE VISITATION OF THE PATIENTS THEREIN.

194.—(a) Every approved home may at any time, by day or night, be visited by any one or more of the Commissioners or their Inspectors.

(b) The visits of the Commissioners and their Inspectors shall, unless there be reason to the contrary, be made without previous notice.

195.—(1) The visiting Commissioners and Inspectors shall, at every visit to an approved home which they are by the Act required to make, and any one or more of the Commissioners and Inspectors may at any other visit do all or any of the following things:—

(a) Inspect any or every part of the building where defectives are received, and every building communicating therewith or detached therefrom, and every part of the ground and appurtenances, held, used or occupied therewith:

(b) See every patient and give to each an opportunity of making a complaint, and may see every person resident in the home:

(c) Consider the observations made in the visitors' book and the patients' book:

(d) Enter in the visitors' book a minute of the condition of the home, of the patients therein, and the number of patients who have been restrained or secluded, with the reasons for such restraint or seclusion.

(e) Inquire—

When divine service is held and what average number of patients attend;

What occupations and recreation are provided for the patients;

How the patients are classified, trained, educated and employed;

As to the diet and clothing of the patients;

As to the moneys paid to the managers on account of any patients under their care;

As to the number and qualifications of the staff and the condition of their employment;

As to such other matters as may in their opinion require investigation.

(2) The result of the foregoing inspections and inquiries, with such observations as may be thought proper, shall be entered in the visitors' book.

(3) Each visiting Commissioner and Inspector may at any visit enter in the patients' book such observations as he thinks fit as to the state of mind or body of any patient.

196. The superintendent of every approved home shall lay before the visiting Commissioners or Commissioner or Inspector at each visit—

- (a) A list of all the patients then in the home (distinguishing aided patients from other patients, and males from females);
- (b) The several books required by the Regulations to be kept by the superintendent and by the medical officer;
- (c) The certificate of approval then in force for the home;
- (d) All documents and papers relating to any of the patients at any time received into the home which may be required to be produced;
- (e) All unforwarded letters written by patients.

197. The superintendent of every approved home shall show to each Commissioner and Inspector visiting the same every part thereof and every person who is a patient therein.

198. The superintendent shall produce any patient to any person who is authorized by the Act or under the Regulations to visit such patient and shall afford facilities to interview him.

199. Every Commissioner or Inspector visiting an approved home shall carefully consider and give special attention to the state of mind of any patient, the propriety of whose retention has been questioned or gives rise to doubt or to whose mental condition their attention is specially called, and shall, if the state of mind of such patient is considered doubtful, or the propriety of his retention requires further consideration, make and sign a minute thereof in the patients' book and shall report to the Board.

200.—(1) A medical practitioner appointed by the guardians of any union, and also the guardians of any union, to the number of not more than five, shall be permitted to visit at reasonable hours and examine any patient chargeable to the union resident in an approved home, unless the medical officer of the home delivers to the person or persons intending to make the visit a statement signed by him certifying that for the reasons set forth in the statement the visit would be injurious to the defective.

(2) The medical officer shall forthwith enter in the medical journal the reasons set forth in the statement, and shall sign the entry.

THE POWERS AND DUTIES OF GUARDIANS.

201. A person appointed to be a guardian under the Act shall, subject to the direction of the Board, have full power and authority in regard to a patient under his care in relation to his residence, diet, education, occupation, recreation, and other similar matters. He shall, unless the Board otherwise direct, require the patient to reside with him.

202. No corporal punishment shall under any circumstances be administered by a guardian to a patient in his charge.

203. He shall provide, according to the means available, for the education, occupation and recreation of the patient and shall ensure that in these respects every thing practicable is done for the improvement of his mental and physical condition.

204. He may change his residence and remove the patient with him to any new residence in England or Wales.

205. Seven clear days before a change of residence he shall give notice in writing thereof and of his new address to the Board and to the persons or authority responsible for the patient's maintenance and to the person on whose petition the order placing the patient under his guardianship was made, and, in the case of a patient so placed without order, to his parent or guardian.

206. He may, with the previous consent of a Commissioner, take or send the patient under proper control to any specified place or places for any definite time for the benefit of his health or permit the patient to be absent on leave for such period as may be thought fit.

207. Before any consent by a Commissioner is given, the approval in writing of the person on whose petition the order was made, or, in the case of a patient placed under guardianship without order, the consent of the person who has so placed him shall be produced to the Commissioner unless he in his discretion dispenses therewith.

208. He shall within seven days after the reception of the patient send to the Board notice thereof in the prescribed form together with a medical statement to be made and signed, when the patient has been received under an order by the medical officer of the Local Authority, and, when received without order, by a duly qualified medical practitioner, together with copies of the order and documents whereon the same was made, or, if the patient has been placed under guardianship without order, copies of the statement by the parent or guardian and of the certificates.

209. He shall within twenty-four hours after the removal, discharge, escape, or recapture of a patient send written notice thereof to the Board and to the persons or authority responsible for the payments.

210. He shall within seven days of a patient attaining the age of twenty-one years, and not less than one month before the expiration of the order of detention of any patient, send notice thereof to the Board, and shall carry out the directions which he receives from the Board with a view to the consideration of the case by the Board and the Visitors.

211. In case of the death of the patient he shall immediately, and in every case within 48 hours thereof, send notice thereof to the Board, the Coroner, the Registrar of Deaths of the district, the persons or authority responsible for his maintenance, and the petitioner (if any), or the parent or guardian who placed him under guardianship.

212. He shall make such reports and give such information to the Board in reference to the patient as they may from time to time in their discretion direct or require.

213.—(1) Arrangements shall be made to the satisfaction of the Board for the provision of suitable medical attendance for a patient who has been placed under guardianship.

(2) The medical officer of the Local Authority when a patient has been placed under guardianship under an order, and a duly qualified medical practitioner when the patient has been so placed without order shall as soon as possible after the reception of a patient enter at the beginning of the medical journal which shall be kept in every house where a patient is under guardianship, a sketch of the previous history of the case and full particulars of the mental and bodily condition of the patient.

(3) Such medical officer or practitioner shall also at each visit enter in the medical journal the date of the visit and particulars of the mental and bodily condition of the patient and all other particulars indicated in the journal.

(4) Every entry to be made under these Regulations shall be signed by the person who makes the same.

214. A guardian who wishes to resign the guardianship of a defective shall give previous notice of his intention to the Board and to the person or authority paying for the maintenance of the defective.

215. If the patient is or becomes unsuitable for guardianship, the guardian shall give immediate notice of the circumstances to the Board and to the person or authority paying for the maintenance of the defective.

216. He shall, if the defective is placed under his guardianship on the death, resignation, or removal from office of a former guardian, send to the Board within seven days of his reception notice thereof, together with a copy of the order of the Judicial Authority appointing him to be guardian.

217. Any person appointed to be the guardian of a defective who resigns his guardianship without such previous notice as aforesaid, or who abandons his guardianship or fails to carry out the foregoing Regulations, shall be liable on conviction thereof to a penalty not exceeding £20.

THE VISITATION OF DEFECTIVES UNDER GUARDIANSHIP.

218.—(a) Every dwelling in which there is a patient under guardianship may at any time, by day or night, be visited by any one or more of the Commissioners or their Inspectors.

(b) The visits of the Commissioners and their Inspectors shall, unless there be reason to the contrary, be made without previous notice.

219. The visiting Commissioners and their Inspectors shall, at every visit to such dwelling which they are by the Act required to make, and any one or more of the Commissioners or their Inspectors may at any other visit—

- (a) See the patient; and may also see the guardian and any person residing in the house;
- (b) Inquire into the treatment and state of health, both bodily and mental, of the patient, and as to the moneys paid on his account;
- (c) Inspect the dwelling and any part thereof, and the grounds belonging thereto;
- (d) Inspect the Medical Journal and the book kept by the Inspector of the Local Authority and sign the same;
- (e) Enquire—

What occupations and recreation are provided for the patient;

How the patient is trained, educated and employed;

As to the diet and clothing of the patient;

As to such other matters as may, in their opinion, require investigation.

220. The guardian of every patient shall lay before the visiting Commissioners or their Inspectors at each visit—

- (a) The books required by the Regulations to be kept;
- (b) All documents relating to the patient;
- (c) All unforwarded letters written by the patient.

221. The Visitors shall visit the patients under guardianship as often as may be necessary for the due performance of their duties under Sections 11 and 12 (2) of the Act, and shall sign the Medical Journal at each visit.

222. Any one or more of the Visitors shall, upon the request in writing of the Board, visit any patient under guardianship, and shall have the same powers as the Commissioners on their visits.

223. The Local Authority shall cause every defective under guardianship who is wholly or partly maintained by the Local Authority to be visited by their officers or other persons at intervals not exceeding two months, or such shorter period as the Board may in any case prescribe.

224. The Inspectors under the Local Authority or other persons inspecting on behalf of the Local Authority shall, at each visit, enter in the book kept for the purpose a minute of the condition of the dwelling and of the patient under guardianship, and shall sign the same.

225. Where a defective wholly or partly maintained by a Local Authority is under guardianship within the area of another Local Authority, the visitation referred to in the foregoing Regulations may be carried out on behalf of the responsible authority by the Local Authority for the area in which the defective is resident.

CORRESPONDENCE AND VISITS OF PATIENTS UNDER GUARDIANSHIP.

I. Correspondence.

226. Every person under whose guardianship any patient is shall forward unopened all letters written by any patient and addressed to the Lord Chancellor, to a Secretary of State or to the Commissioners or any Commissioner or to the person who placed him under guardianship, or on whose petition an order for his reception was made or to any Visitors or Visitor or to the Committee for the Care of the Mentally Defective of any Local Authority where the patient is resident, and may also at his discretion forward to its address any other letter if written by a patient, provided that no such letters shall be forwarded to persons other than those to whom they are addressed.

Any person under whose guardianship any patient is who makes default in complying with the obligation imposed on him by the foregoing regulation shall for each offence be liable to a penalty not exceeding £20.

227. Patients shall be allowed to write letters at reasonable intervals, but, except as is hereinbefore provided, every letter to or from a patient may be read by such guardian, and if the contents are objectionable or if it is considered undesirable that intercourse should be maintained between the patient and the person to whom the letter is addressed or from whom it is received it shall not be forwarded or delivered. But all such letters shall be retained and produced on request to any Commissioner, Inspector or Visitor. Provided that any such letters so retained may be destroyed after the lapse of one month from the last visit of a Commissioner, Inspector or Visitor.

228. No patient under guardianship shall be permitted to sign any legal document brought or sent to him without the consent of the guardian.

II. Visits.

229. Visits by the nearest adult relative or the guardian who is entitled under the statute to visit a patient under guardianship and visits by relatives and other persons to a patient under guardianship shall, so far as is consistent with the convenience of the person under whose guardianship the person is residing, be encouraged and shall be permissible at such reasonable times and under such conditions as may, with the approval of the Board, be prescribed by such person.

230. The special consent of the person under whose guardianship the patient is residing shall be required in each case of visits to the patient by solicitors, officers of the law and other persons in connection with business transactions.

231. If there be reasonable ground for suspecting that any person visiting a patient is exercising a bad influence on him or encouraging him to break the rules of the person under whose guardianship the patient is residing his visit may be suspended and he may be removed from the premises.

232. In any case where, owing to the character and antecedents of the person proposing to visit a patient, such a visit would, in the opinion of the person under whose guardianship the patient is residing, be contrary to the interests of the patient a report to that effect shall forthwith be sent to the Board and such visit shall not be allowed unless the Board shall make an order granting permission to visit.

233. Any one of the Commissioners may at any time give an order in writing under his hand for the admission of any person to visit any patient under guardianship. The order of admission may be either for a single admission, or for an admission for a limited number of times, or for admission generally at all reasonable times and with or without restriction as to the presence of an attendant or otherwise.

234. If the person under whose guardianship the patient is residing refuses, prevents or obstructs the admission to any patient of any person who produces any such order of admission he shall for every offence be liable to a penalty not exceeding £20.

TRANSFER OF PATIENT UNDER GUARDIANSHIP TO AN INSTITUTION OR CERTIFIED HOUSE OR TO ANOTHER GUARDIAN.

235. When a patient ordered to be placed under guardianship is or becomes unsuitable for guardianship, the Local Authority, in default of application by the person appointed guardian, shall, unless the Board otherwise direct, apply to a Judicial Authority for an order that the patient be sent to an Institution or Certified House.

236. The Local Authority, in default of application by any person who appears to be interested, shall, unless the Board otherwise direct, apply to a Judicial Authority for an order

- (a) for the removal of any person appointed guardian who is or becomes unsuitable, or abandons his charge;
- (b) for the appointment of a suitable person in the place of a person appointed guardian who has been removed, has died, or has resigned or is about to resign his office.

237. "The Local Authority" for the purpose of these regulations shall mean the Local Authority (if any) paying or contributing to the expenses of the patient's guardianship, or, if there be none such, the Local Authority within whose area the patient is detained under guardianship.

ABSENCE OF PATIENTS FROM CERTIFIED INSTITUTIONS AND HOUSES.

238. The Superintendent of a Certified Institution with the consent of a Commissioner or two members of the Committee, and the Superintendent of a Certified House with the consent of a Commissioner or of two of the Visitors may grant leave of absence to any patient detained in the Institution or House.

239. The persons granting or consenting to such leave shall before doing so satisfy themselves as to the suitability of the place to which the patient will be taken and as to the means of care and control which will be available, and in the case of a patient not wholly or partly maintained by a Local Authority consent shall not be given without the concurrence of the parent or guardian or of the person by whom the last payment on account of the patient was made, unless the consenting authority, on cause being shown, dispense with the same.

240. Such leave of absence shall be given by written licence under the hand of the Superintendent. The licence shall set out the period for which, and the conditions on which, it is granted, and it may at any time be revoked or, with the like consent, renewed.

241. On the expiry or revocation of the licence the patient may be brought back to the Institution or House by the Superintendent or any officer or other person authorised by him in writing.

242. The Superintendent of a Certified Institution or House may of his own authority permit any patient to be absent therefrom for a period not exceeding 48 hours if satisfied as to the suitability of the place to which the patient will be taken and as to the means of care and control which will be available.

243. Any person who knowingly secretes a patient on leave of absence or on licence, or a patient at large whose licence has expired or been revoked, or induces or knowingly assists any such patient to escape or break any conditions of his licence, or who obstructs an officer authorised to take him back to the Institution shall be liable to a penalty not exceeding £20.

PROCEDURE ON RECONSIDERATION OF CASES OF PATIENTS ATTAINING THE AGE OF 21.

244. The Visitors shall inform themselves of the date at which any patient detained while under the age of 21 years in an Institution or Certified House or under guardianship within the county or borough for which they are appointed will attain that age, and shall arrange for the reconsideration of the patient's case by not less than two of their number.

245. The Visitors who reconsider any such case shall, whenever practicable, give to the parent or guardian of the patient the opportunity, if he so desires, of being heard personally or by some one on his behalf, or of making representations in writing with reference to the case; and shall also give to the petitioner, or, where the patient is detained under the order of a court or Secretary of State, to the Secretary of State, 14 days' notice of their intention to reconsider the case.

246. They shall for the purpose of the reconsideration visit the patient at the Institution, Certified House, or dwelling in which he is residing, unless in the interest of the patient they deem it advisable to summon him to attend before them, or otherwise arrange to see him elsewhere.

247. The decision of the Visitors on the reconsideration of the case shall be communicated to the superintendent or guardian, who shall give notice to the Board, the petitioner, and, where the patient is detained under an order of a court or Secretary of State, to the Secretary of State. If the Visitors decide not to order the patient's discharge, notice of the decision shall be given to the defective and his parent or guardian with an intimation that an appeal may be made to the Board within 14 days of the receipt of such notice.

248. If a patient is absent on leave when he attains the age of 21 years, he may be brought back for the purpose of the reconsideration of his case, or arrangements may be made for its reconsideration by the Visitors appointed for the county or borough within which he is temporarily residing.

PROTECTION OF DEFECTIVES IN SINGLE CARE.

249. If a person who has been placed under the care of any person as being a defective is found, on the visit of a Commissioner, to be kept in conditions which are improper and dangerous to his physical, mental or moral welfare, the Commissioner may direct in writing that the person having charge of the defective shall, as from the date named in the direction, cease to keep the defective in his care and control: and any person who retains a defective in his care and control contrary to the terms of such a direction shall be guilty of a breach of this Regulation, and be liable on summary conviction to a fine not exceeding £50:

Provided that no such direction shall be given until the person in charge of the defective has had a reasonable opportunity of removing the conditions which are improper and dangerous.

Dated the 2nd day of April, 1914.

(Sd.) *R. McKenna*,
One of His Majesty's Principal
Secretaries of State.

SCHEDULE.

[Form Pl.]

PETITION FOR AN ORDER SENDING A DEFECTIVE TO AN INSTITUTION OR CERTIFIED HOUSE OR PLACING HIM UNDER GUARDIANSHIP, PRESENTED BY A RELATIVE OR FRIEND.

In the matter of A.B. , of , in the County⁽¹⁾
of , an alleged defective.

To S.T. a judicial authority⁽²⁾ under the Mental Deficiency Act, 1913.

The petition of C.D. , of , in the County⁽¹⁾
of , sheweth as follows:—

1. The petitioner is over 21 years of age.

2. The petitioner is ⁽³⁾ to the said A.B.

[or 2. The petitioner is a friend but not a relative of the said A.B.
The reasons why this petition is not presented by a relative are as follows:—

The petitioner's connection with the said A.B. is that:—

and he [or she] presents the petition in the following circumstances:—

3. The petitioner last saw the said A.B. at
on the day of .⁽⁵⁾]⁽⁴⁾

4. The said A.B. is a defective within the meaning of the said Act, being ⁽⁶⁾ and is subject to be dealt with under the said Act.

5. The petitioner undertakes to visit, personally or by someone specially appointed by him [or her], once at least in every six months, the said A.B. while detained [or kept under guardianship] under the Order made on this petition.

6. A Statement of Particulars concerning the said A.B. accompanies this petition.

7. [The reason why the usual medical attendant of the said A.B. has not signed one of the medical certificates accompanying this petition is:—]⁽⁷⁾

The petitioner therefore prays that an Order may be made for sending the said A.B. to ⁽⁸⁾ [or for placing the said A.B. under the guardianship of ⁽⁸⁾].

Dated .

Signed

Date of presentation .

⁽¹⁾ Or county borough.

⁽²⁾ i.e., judge of county courts, a police or stipendiary magistrate, or a justice specially appointed under the Lunacy Act, 1890.

⁽³⁾ If a relative, state the relationship, see footnote.*

⁽⁴⁾ Erase the bracketed part if the petitioner is a relative.

⁽⁵⁾ The petitioner must have seen the alleged defective within 14 days before presenting the petition.

⁽⁶⁾ State whether an idiot, an imbecile, a feeble minded person, or a moral imbecile.

⁽⁷⁾ Erase this paragraph if one of the medical certificates is signed by the usual medical attendant.

⁽⁸⁾ The name of the Institution Certified House, or guardian proposed may be inserted at any time before an order is made.

* Relative, for the purposes of this Act means—husband or wife, or a lineal ancestor or lineal descendant, or lineal descendant of an ancestor, not more remote than great-grandfather or great-grandmother.

[Form P2.]

PETITION FOR AN ORDER SENDING A DEFECTIVE TO AN INSTITUTION OR CERTIFIED HOUSE OR PLACING HIM UNDER GUARDIANSHIP, PRESENTED BY AN OFFICER OF THE LOCAL AUTHORITY.

In the matter of A.B. , of , in the County⁽¹⁾ of , an alleged defective.

To S.T. a judicial authority⁽²⁾ under the Mental Deficiency Act, 1913.

The petition of E.F. , of , in the County⁽¹⁾ of , sheweth as follows:—

1. The petitioner is over 21 years of age and is an Officer of the Local Authority of the County⁽¹⁾ of , authorized to present petitions under Section 5 of the said Act.

2. The petitioner last saw the said A.B. at on the day of ⁽³⁾.

3. The said A.B. is a defective within the meaning of the said Act, being ⁽⁴⁾ and is subject to be dealt with under the said Act.

4. A statement of particulars concerning the said A.B. accompanies this petition.

5. [The reason why neither of the certificates accompanying this petition has been signed by the usual medical attendant of the said A.B. is ⁽⁵⁾ .]

The petitioner therefore prays that an Order may be made for sending the said A.B. to ⁽⁶⁾ [or for placing the said A.B. under the guardianship of ⁽⁶⁾].

The petitioner further prays that an order may be made requiring the said A.B., or M.N. being a person liable to maintain him, to contribute.

Dated

Signed

Date of presentation

[Form P3.]

STATEMENT OF PARTICULARS TO ACCOMPANY PETITION.

The following are the particulars concerning A.B. referred to in the annexed petition:—

Names in full of defective

Sex and age and date of birth if known.

Married, single, or widowed

Age when mental deficiency first observed.

In case of a female married or widowed, maiden name and name under any previous marriage.

Rank, profession, or previous occupation (if any)

Religious persuasion

Residence

Supposed cause of mental deficiency

⁽¹⁾ Or county borough.

⁽²⁾ i.e., a judge of county courts a police or stipendiary magistrate, or a justice specially appointed under the Lunacy Act, 1890.

⁽³⁾ The petitioner must have seen the alleged defective within 14 days before presenting the petition.

⁽⁴⁾ State whether an idiot, an imbecile, a feeble minded person, or a moral imbecile.

⁽⁵⁾ Erase this paragraph if one of the medical certificates is signed by the usual medical attendant.

⁽⁶⁾ The name of the Institution, Certified House, or guardian proposed may be inserted at any time before an order is made.

If previously detained under the Lunacy Acts, Idiots Act, or Mental Deficiency Act, or placed in an Approved Home, or under guardianship, or under care as a defective, or in a special school or class for mental defectives, when and where

Whether subject to epilepsy

Whether suicidal

Whether of violent or dangerous propensities, and in what way these are shown.

Whether any near relative has been insane, or mentally defective

Names in full and postal addresses of one or more relatives of the defective

Name in full and postal address (if not already given) of the person to whom notice of death is to be sent

Name and postal address of the usual medical attendant of the defective

Dated

Signed

[Form P4.]

MEDICAL CERTIFICATE.

In the matter of A.B. of , of , in the County⁽¹⁾ ^{(1) Or county borough.}

I, the undersigned, K.L. , do hereby certify as follows:—

1. I am a person registered under the Medical Acts and I am in the actual practice of the medical profession [and approved by the Local Authority for the County ⁽¹⁾ of or by the Board of Control, for the purpose of giving medical certificates under the above Act] [and the usual medical attendant of the said A.B.]

2. On the day of , ⁽²⁾ at , ^{(2) The examination must have taken place not more than seven clear days before the date of the presentation of the petition.}
in the County⁽¹⁾ of , separately from any other practitioner, I personally examined the said A.B. and ^{(3) State whether an idiot, an imbecile, a feeble minded person, or a moral imbecile.}
satisfied myself that he was . ⁽³⁾ ^{(4) Give date when observed.}

3. I formed this conclusion on the following grounds, viz.:—

(a) Facts observed by myself—

(i.) at the time of examination;

(ii.) previously to examination.⁽⁴⁾

(b) Facts communicated by others.

4. The said A.B. appeared to me to be [or not to be] in a fit condition of bodily health to be removed.

Dated

Signed
(5)

⁽⁵⁾ Insert postal address.

[Form P5.]

CERTIFICATE AS TO THE IMPRACTICABILITY OF A MEDICAL EXAMINATION.

In the matter of A.B. of , of , in the County⁽¹⁾ ^{(1) Or county borough.}

I, the undersigned, O.P. , of , in the

County⁽¹⁾ of , hereby certify that a medical examination of the above-named A.B. is impracticable.

Dated

Signed

[Form P6.]

STATUTORY DECLARATION TO ACCOMPANY PETITION.

In the matter of A.B. , of , in the County⁽¹⁾
of , an alleged defective.

We, the undersigned, C.D. , of , in the
County⁽¹⁾ of , and I.J. , of ,
in the County⁽¹⁾ of , solemnly and sincerely declare as
follows:—

1. I, the said C.D. , am the person who presents the
accompanying petition.

2. A.B. named in the accompanying petition, is a
defective within the meaning of the Mental Deficiency Act, 1913, being
.(²)

(³) State whether
an idiot, an
imbecile, a feeble
minded person, or
a moral imbecile.

(³) Insert here such
of the circum-
stances stated on
the back of this
form as are appli-
cable to this case.

3. The said A.B. is subject to be dealt with under the
said Act by reason of the following circumstances:—(³)

4. A petition under the said Act [or a petition for a reception order
under the Lunacy Acts, 1890-1911] was presented on the day
of with the following result:—(⁴)

(⁴) If the previous
petition was dis-
missed a copy of
the statement of
reasons for the
dismissal must be
obtained from the
Board and ap-
pended hereto.

5. A medical examination of the said A.B. is
impracticable by reason of the following circumstances:—(⁵)

(⁵) Erase this para-
graph if a medical
examination has
been made.

And we make this solemn declaration, conscientiously believing the
same to be true, and by virtue of the provisions of the Statutory Declara-
tions Act, 1835.

Declared by the said
at , on the day of ,

Before me

Signed

*Circumstances which render a Defective liable to be dealt with, upon
Petition, under the Mental Deficiency Act, 1913.*

He is found	{	(a) neglected;	
	{	(b) abandoned;	
	{	(c) without visible means of support;	
	{	(d) cruelly treated;	
He has been	{	(e) found guilty of a criminal offence, viz.:—	
	{	(f) ordered	} to be sent to a certified Industrial School;
	{	(g) found liable to be ordered	
He is		(h) undergoing detention in an Institution for Lunatics;	
He is		(i) an habitual drunkard within the meaning of the Inebriates Acts, 1879-1900;	
He is		(j) over the age of seven, and notice has been given by the Local Education Authority of to the Local Authority of that—	

She (k) has recently given birth to an illegitimate child, and was at the time of such birth in receipt of poor relief;

She (l) is pregnant of an illegitimate child and is in receipt of poor relief.

[Form P7.]

ORDER SENDING A DEFECTIVE TO AN INSTITUTION OR CERTIFIED HOUSE OR PLACING HIM UNDER GUARDIANSHIP.

I, the undersigned, S.T. , being a Justice for , specially appointed under the Lunacy Act, 1890,⁽¹⁾ having considered the documents hereto annexed, namely:—

The petition of C.D. in the matter of A.B. :
 The medical certificates of K.L. and M.N. :
 [or the certificate of O.P. that a medical examination of the said A.B. is impracticable:]
 the said A.B. is impracticable:]

The statutory declaration made by the said C.D. and by I.J. :

[The consent in writing of Q.R. the (2) of (2) Father, mother, guardian, or person who undertakes or performs the duty of a parent or guardian.
 the said A.B. (3):]

[The undertaking of the said C.D. to visit the said A.B. personally or by someone specially appointed by the said C.D. once at least in every six months while the said A.B. is detained [or kept under guardianship] under this Order(4):]

Having personally seen the said A.B. [and having caused him to be medically examined by U.V. , of , (5).]

Hereby find—

That the said A.B. is a defective within the meaning of the Mental Deficiency Act, 1913, being (6):

Is subject to be dealt with under the same Act by reason of the following circumstances:—

[That the consent of Q.R. the (2) of the said A.B. has been unreasonably withheld :

or that no parent or guardian of, or person who undertakes or performs the duty of a parent or guardian towards, the said A.B. can be found]: (3)

And I hereby order the said A.B. who is a (7) (7) State religious persuasion, if any.
 to be sent to (8)
 [or And I appoint M.N. of to be the guardian of (8) Insert name of the Institution or Certified House, or guardian,
 the said A.B.]

Dated

Signed

Note.—Where the Council of a County or County Borough is to be responsible for the expenses of a defective ordered to be sent to a certified institution or placed under guardianship, the order must recite that the Council has been given the opportunity of being heard, and must find that the defective resides within the area of the Council; and if the institution to which such defective is ordered to be sent is not provided by the Council, the order must either find that there is no room in an institution suitable for him provided by the Council, or must be expressed to be made with the consent of the Council.

[Form P8.]

STATEMENT OF PARTICULARS CONCERNING DEFECTIVE PLACED BY PARENT
OR GUARDIAN IN A CERTIFIED INSTITUTION OR HOUSE.

The following are the particulars concerning A.B.

(¹) State whether of ,(¹) placed by me in (2)
 an idiot, an imbecile, a feeble minded person [or under the guardianship of (3)]:—
 under the Names in full of defective
 age of twenty- Sex, age and date of birth, if known.
 one, or a moral Married, single, or widowed
 imbecile under the Age when mental deficiency first observed.
 age of twenty-one. In case of a female, married or widowed, maiden name and name under
 Certified Institu- any previous marriage.
 tion or House. Rank, profession, or previous occupation (if any)
 (³) Insert name of Religious persuasion
 guardian. Residence
 Supposed cause of mental deficiency
 If previously detained under the Lunacy Acts, Idiots Act, or Mental
 Deficiency Act, or placed in an Approved Home, or under guardian-
 ship, or under care as a defective, or in a special school or class for
 mental defectives, when and where
 Whether subject to epilepsy
 Whether suicidal
 Whether dangerous to others and in what way
 Whether any near relative has been insane, or mentally defective
 Names in full and postal addresses of one or more relatives of the defective
 Name in full and postal address (if not already given) of the person to
 whom notice of death is to be sent
 Name and postal address of usual medical attendant of the defective

Dated .

Signed , of , (⁴) (⁵)
 of the said A.B.

(⁴) Insert postal address.
 (⁵) If a feeble minded person, or a moral imbecile, the statement must be signed by the father or mother. If an idiot or imbecile the statement may be signed by father, mother, or guardian, or the person who undertakes or performs towards the defective the duty of a parent or guardian.

[Form P9.]

CERTIFICATE BY A JUDICIAL AUTHORITY IN THE CASE OF A FEEBLE-MINDED
PERSON OR A MORAL IMBECILE UNDER THE AGE OF 21 PLACED BY HIS
PARENT IN AN INSTITUTION OR CERTIFIED HOUSE.

*To be appended to each Medical Certificate if the Defective is not an
 Idiot or Imbecile.*

(¹) Or the judge of the county court of , or the
 Stipendiary Magistrate for , or a
 Metropolitan Police Magistrate. (²) Or county borough.
 I, the undersigned , being a Justice for ,
 specially appointed under the Lunacy Act, 1890, (¹) do hereby certify that,
 having enquired into the case of A.B. , of , in
 the County(²) of , I am satisfied that the said A.B.
 is a (³) within the meaning of the
 Mental Deficiency Act, 1913.
 Dated .
 Signed .

(³) State whether a feeble minded person or a moral imbecile.

Form C1.

APPLICATION FOR A CERTIFICATE FOR A CERTIFIED INSTITUTION.

Mental Deficiency Act, 1913.

To the Board of Control.

WE, being the Managers of the Premises named in the following particulars, and intended for the reception, control, care, and treatment of Defectives, hereby apply that a Certificate may be granted to us for the said Premises as a Certified Institution under the Mental Deficiency Act, 1913.

Particulars.

1. The name and locality of the proposed Institution.
2. The names of the Managers.
3. The number of patients it is proposed to receive:—

Male	Female	Total
		Of whom
		private.
4. The class or classes intended to be received:—
 - Idiots;
 - Imbeciles;
 - Feeble minded;
 - Moral Imbeciles.
5. Limits of age.
6. Limitations to members of a religious persuasion or residents in a particular locality, if any.
7. Name of the Superintendent and particulars of the proposed staff.

Date.

Signed.

This form when filled up must be accompanied by the plans and other particulars specified in the Regulations.

Form C2.

CERTIFICATE FOR A CERTIFIED INSTITUTION.

Mental Deficiency Act, 1913.

KNOW ALL MEN, that _____ of _____ in the Parish of _____ have delivered to us the prescribed particulars, together with a plan and description of the premises called _____ situate at _____ in the _____ of _____, and we, having considered the same and being satisfied of the fitness of the premises and of the persons proposing to maintain them, do hereby certify the said premises as an Institution for defectives. And we authorise the said _____ [and such persons as may be Managers from time to time during the currency of the Certificate] to use the said premises for the reception of _____

patients, of whom not more than shall be males and not more than
 shall be females: and of whom not more than shall be private
 patients: for years from this date.
 Male Female
 Total

The class or classes of defectives authorised to be received:—

Sealed with our Common Seal this day of 191 .

Witness

Secretary.

Form C3.

APPLICATION FOR A CERTIFICATE FOR A CERTIFIED HOUSE.

The Mental Deficiency Act, 1913.

To the Board of Control.

I, [or WE,] being the owner of the House named in the following particulars, and being desirous of receiving Defectives therein for private profit, hereby apply that a Certificate may be granted to me, [or us,] for the said House as a Certified House under the Mental Deficiency Act, 1913.

Particulars.

1. The name and locality of the proposed House.
2. The name of the Owner.
3. The number of patients it is proposed to receive:—

Male Female
 Total

4. The class or classes of defectives intended to be received:—
 Idiots;
 Imbeciles;
 Feeble minded;
 Moral Imbeciles.

5. Limits of age.

6. Limitations to members of a religious persuasion or residents in a particular locality, if any.

7. The name of the Superintendent and particulars of the proposed staff.

Date.

Signed.

This form when filled up must be accompanied by the plans and other particulars specified in the Regulations.

Form C4.

CERTIFICATE FOR A CERTIFIED HOUSE.

Mental Deficiency Act, 1913.

KNOW ALL MEN, that of
 in the Parish of in the of
 has [or have] delivered to us the prescribed particulars, together with a
 plan and description of a House and Premises called
 situate at in the of ,

proposed to be certified for the reception of Defectives as a Certified House, and we, having considered the same and being satisfied of the fitness of the Premises and of the Applicant and of the intention of the Superintendent [or Owner] to reside therein, do hereby certify the said House and Premises as a Certified House for the reception of patients, of whom not more than shall be males and not more than shall be females for calendar months from this date.

Male		Female
	Total	

The class or classes of defectives authorised to be received:—

Sealed with our Common Seal this day of 191 .
 Witness
 Secretary.

Amount paid £ s. d.

Form C5.

APPLICATION FOR A RENEWED CERTIFICATE FOR AN INSTITUTION ALREADY CERTIFIED.

To the Board of Control.

WE, being the Managers of the Certified Institution called hereby apply that a Certificate may be granted to us in renewal of that now subsisting.*

Date.
 Signed.

Form C6.

RENEWED CERTIFICATE FOR AN INSTITUTION ALREADY CERTIFIED.

KNOW ALL MEN, that

 of
 in the Parish of in the of
 has [or have] applied to us for a renewal of the Certificate in respect of the Premises called situate at in the
 of , certified on the day of
 as an Institution for Defectives, and we, having considered the same, do hereby certify the said premises as an Institution for Defectives and we authorize the said [and such persons as may be Managers from time to time during the currency of the Certificate] to use the said Premises for the reception of patients of whom not more than shall be males and not more than shall be females and of whom not more than shall be private patients for years from this date.

Male		Female
	Total	

The class or classes of defectives authorized to be received:—

Sealed with our Common Seal this day of 191 .
 Witness
 Secretary.

* If any variation in the terms of the Certificate is desired add the words "with the following variations" and give particulars of the variations applied for.

Form C7.

APPLICATION FOR A RENEWED CERTIFICATE FOR A HOUSE ALREADY CERTIFIED.

To the Board of Control.

I [*or WE*], being the Owner [*or Owners*] of a Certified House called _____, hereby apply that a Certificate may be granted to me [*or us*] in renewal of that now subsisting.*

Date.

Signature.

Form C8.

RENEWED CERTIFICATE FOR A HOUSE ALREADY CERTIFIED.

Mental Deficiency Act, 1913.

KNOW ALL MEN, that _____ of _____ in the Parish of _____ in the _____ of _____ has delivered to us a List of the number of Patients now in a House and Premises called _____ situate at _____ in the _____ of _____ certified on the _____ day of _____ last for the reception of Defectives, and we, having considered the same, do hereby certify the said _____ House and Premises as a Certified House for the reception of _____ patients of whom not more than _____ shall be males and not more than _____ shall be females for _____ calendar months from this date.

Male Female

Total

The class or classes of defectives authorized to be received:—

Sealed with our Common Seal this _____ day of _____ 191 .
Witness _____ Secretary.

Amount paid £ s. d.

Form C9.

APPLICATION FOR APPROVAL OF PREMISES PROVIDED BY GUARDIANS UNDER SECTION 37.

Mental Deficiency Act, 1913.

To the Board of Control.

WE, the Council for the County [*or County Borough*] of _____, which comprises the whole or part of the Poor Law Union of _____, apply for the approval of the Premises mentioned in the following particulars.

* If any variation in the terms of the approval is desired add the words "with the following variations" and give particulars of the variations applied for.

Particulars.

1. The name and locality of the proposed Institution.
2. The Board or Boards of Guardians in the position of managers.
3. The number of patients it is proposed to receive.

Male	Female	
		Total
4. The class or classes of defectives intended to be received:—

Idiots	...	...	...	...
Imbeciles	...	...	...	...
Feeble minded	...	...	...	...
Moral Imbeciles	...	...	...	...
5. Limits of age.
6. The particular locality (if any) from which they are to be sent.
7. The name of the Superintendent and particulars of the proposed staff.

Date.

(L.S.)

This form when filled up must be accompanied by the plans and other particulars specified in the Regulations.

Form C10.

APPROVAL OF PREMISES PROVIDED BY GUARDIANS UNDER SECTION 37.

Mental Deficiency Act, 1913.

KNOW ALL MEN, That
 the Local Authority for the _____ of
 comprising the whole or part of the Poor Law Union of _____
 have applied to us for the approval of certain buildings and premises
 known as _____ and provided by the Board of Guardians
 of the Union aforesaid [in conjunction with the Board of Guardians of
 the _____ Union] for the reception of Defectives, and have delivered
 to us the prescribed particulars, together with a plan and description
 thereof, and we, having considered the same and being satisfied of the
 special fitness of the buildings and premises for the detention, care, and
 training of Defectives, and having had notified to us the consent of the
 Local Government Board, do hereby approve the said buildings and premises
 for the reception of _____ patients of whom not more than _____ shall be
 males and not more than _____ shall be females for _____ years from this
 date.

Male Female

Total

The class or classes of defectives authorized to be received:—

Sealed with our Common Seal this _____ day of _____ 191 .

Witness

Secretary.

Form C11.

APPLICATION FOR RENEWED APPROVAL OF PREMISES PROVIDED BY GUARDIANS
UNDER SECTION 37.

To the Board of Control.

We, the Council for the County [*or County Borough*] of _____, which comprises the whole or part of the Poor Law Union of _____, apply that an approval may be granted in renewal of that now subsisting for*

Date.

(L.S.)

Form C12.

RENEWED APPROVAL OF PREMISES PROVIDED BY GUARDIANS UNDER SECTION 37.

Mental Deficiency Act, 1913.

KNOW ALL MEN, that _____ the Local authority for the _____, comprising the whole or part of the Poor Law Union of _____, have applied to us for a renewal of the approval in respect of the Premises called _____ situate at _____ approved on the _____ day of _____ for the reception of Defectives, and we, having considered the same, do hereby approve the said Buildings and Premises for the reception of patients of whom not more than _____ shall be males and not more than _____ shall be females for _____ years from this date.

Male	Female
Total	

The class or classes of defectives authorized to be received:—

Sealed with our Common Seal this _____ day of _____, 191

Witness

Secretary.

Form A1.

APPLICATION FOR AN APPROVAL FOR AN APPROVED HOME.

To the Board of Control,

We [*or I*] being the managers [*or owner*] of the premises named in the following particulars and intended for the reception, control, care, and treatment of defectives, hereby apply that an approval may be granted to us [*or me*] for the same premises as an Approved Home under the Mental Deficiency Act, 1913:—

Particulars.

1. The name of the proposed home.
2. Whether (a) supported wholly or partly by voluntary contributions or by applying the excess of payments of some patients for or towards the support of other patients, or (b) conducted for private profit.

* If any variation in the terms of the approval is desired add the words "with the following variations" and give particulars of the variations applied for.

3. The name of the managers or owner.

4. The number of patients it is proposed to receive:—

		Males.	Females.
Non-aided	...	...	...
*Aided	...	...	...

5. The name of the superintendent and particulars of the proposed staff.

Date

Signature

This form when filled up must be accompanied by the plans and other particulars specified in the Regulations.

Form A2.

APPROVAL FOR AN APPROVED HOME.

Mental Deficiency Act, 1913.

KNOW ALL MEN, That we, the Board of Control, do hereby certify that
of
in the Parish of in the County of
has [or have] delivered to us the prescribed particulars, together with a
plan and description of the premises called
situate at in the County of
the whole or part of which is proposed to be approved for the reception of
Defectives as an Approved Home, and we, having considered and being
satisfied of the fitness of the same and of the Applicant [or Applicants] and
of the intention of , the superintendent, to reside therein, do
hereby authorize the said to use that part of the said
coloured on the plan hereto annexed or
the whole of the said in the manner indicated as an
Approved Home for the reception of Male and
Female Defectives for calendar months or years
from this date.

		Males.	Females.
Non-aided	...	...	...
Aided	...	...	...

Sealed with our Common Seal this day of
191 .

Witness

Secretary.

				£	s.	d.
Non-aided patients	...	...	...
Aided	...	...	...
Total	...	...	...	£

* An "Aided" patient is one wholly or partially maintained out of public funds.

Form A3.

APPLICATION FOR A RENEWED APPROVAL FOR A HOME ALREADY APPROVED.
To the Board of Control,

We [*or I*] being the managers or owner of the Approved Home called _____, hereby apply that an approval may be granted to us [*or me*] in renewal of that now subsisting.*

Date

Signature

Form A4.

RENEWED APPROVAL FOR AN APPROVED HOME.

Mental Deficiency Act, 1913.

KNOW ALL MEN, That we, the Board of Control, do hereby certify that _____ of _____ in the Parish of _____ in the County of _____ has [*or have*] delivered to us a List of the number of patients now in a House and Premises called _____ situate at _____ in the County of _____ approved on the _____ day of _____ last, for the reception of Defectives, and we, having considered the same, do hereby authorize the said _____, the Superintendent undertaking to reside therein, to use the said House and Premises as an Approved Home for the reception of _____ Male and _____ Female Defectives for _____ calendar months or _____ years from this date.

Males. Females.

Non-aided

Aided

Sealed with our Common Seal this

day of

191 .

Witness

Secretary.

£ s. d.

Non-aided patients

Aided patients

Total £

[Form D1.]

[NAME OF INSTITUTION OR CERTIFIED HOUSE OR DWELLING OF GUARDIAN.]

Special Report by Visitors.

* For use of
Board of
Control only.

No.*

Name of Patient

Date of Birth

Date of Reception

Date of Order on which detained

* If any variation in the terms of the approval is desired add the words "with the following variations" and give particulars of the variations applied for.

We have this day seen [or on the day of saw]
and examined the above-named patient, and hereby report that with regard
to mental condition he [or she] is
that the means of care and supervision which would be available if he [or
she] were discharged are and that in our opinion he
[or she] is still [or is not now] a proper person to be detained in his own
interest in an institution [or in a certified house, or, under guardianship].

Dated the day of .
Signed

Visitors of Institutions for Defectives
under the Mental Deficiency Act,
1913, for the County [or Borough]
of .

To the Board of Control.

[Form D2.]

[NAME OF INSTITUTION OR CERTIFIED HOUSE OR DWELLING OF GUARDIAN.]

Special Report and Certificate.

No.*

Name of Patient .

Date of Reception .

Date of Order on which detained .

* For use of
Board of Control only.

I have this day seen and examined the above-named patient, and
hereby report that with regard to mental condition he [or she] is
and with regard to bodily
condition he [or she] is
and I hereby certify that he [or she] is still a proper person to be detained
in his [or her] own interest in an institution [or in a certified house, or
under guardianship].

Dated the day of .

Signed

Medical Officer
[or A Medical Practitioner
registered under the Medical Acts].

To the Board of Control.

[Form D3.]

[NAME OF INSTITUTION OR CERTIFIED HOUSE OR DWELLING OF GUARDIAN.]

Order by Board of Control continuing Order or Authority for Detention.

No.

Name of Patient .

Date of Reception .

Date of Order on which detained .

Date at which Order or Authority for detention will expire if not continued

We, the Board of Control, having considered the reports and certificate
with regard to the above-named patient, particulars of which are set out

below, and the means of care and supervision which would be available for him [or her] if he [or she] were discharged, and being satisfied that the continuance of the above-mentioned Order [or authority for detention] is required in his [or her] interests Do hereby Order the same to be continued for one year [or five years] from the day of

Sealed with our Common Seal, this day of

Witness.

(L.S.)

Secretary to the Board of Control.

REPORTS AND CERTIFICATE REFERRED TO IN THE ABOVE ORDER.

Special report dated of
Visitors of Institutions for Defectives for the County [or Borough]
of

Special report and certificate dated of
Medical Practitioner [the Medical Officer of the above-named
Institution].

[Report dated of Medical Practitioner
who examined the above-named patient at the request of .]

FORM R1.

[Name of Certified Institution, Certified House, Approved Home, or
Dwelling where a patient is under guardianship.]

NOTICE OF ADMISSION.

Date of reception order, the day of

I hereby give you notice that was admitted into this
certified institution [or certified house, or approved home, or under
guardianship] as a private [or aided or criminal] patient on the day
of , and I hereby transmit a copy of the order and other
documents on which he was received.

Subjoined is a statement with respect to the mental and bodily condition
of the patient.

(Signed)

Superintendent, Clerk, or the person
having charge of the said patient

Dated the day of
To the Board of Control.

Statement.

I have this day [some day not less than two clear days nor more than seven
clear days after the admission of the patient] seen and examined the patient
mentioned in the above notice, and hereby certify that with respect to
mental state he [describing it] and with respect to bodily health and
condition he [describing it].

Dated the day of

(Signed)

Medical Officer.

FORM R2.

[Name of Certified Institution, Certified House, Approved Home, or Dwelling where a patient is under guardianship.]

NOTICE OF TRANSFER FROM PRIVATE TO AIDED CLASS OR VICE VERSÂ.

I hereby give you notice that _____ admitted into this certified institution [or certified house, or approved home, or under guardianship] as a private (or aided) patient on the _____ day of _____, was on the _____ day of _____ transferred to the aided [or private] class.

Dated the _____ day of _____

(Signed)

Superintendent, Clerk, or the person
having charge of the said patient.

To the Board of Control.

FORM R3.

[Name of Certified Institution, Certified House, Approved Home, or Dwelling where a patient is under guardianship.]

NOTICE OF REMOVAL.

Date of reception order, the _____ day of _____

I hereby give you notice that _____, a private [or aided, or criminal] patient received into this certified institution [or certified house, or approved home, or under guardianship] on the _____ day of _____, was, on the _____ day of _____, removed to _____ relieved [or not improved] by the authority of _____

(Signed)

Superintendent, Clerk, or the person
having charge of the said patient.

Dated the _____ day of _____

To the Board of Control.

FORM R4.

[Name of Certified Institution, Certified House, Approved Home, or Dwelling where a patient is under guardianship.]

NOTICE OF DISCHARGE.

Date of reception order, the _____ day of _____

I hereby give you notice that _____, a private [or aided, or criminal] patient, received into this certified institution [or certified house, or approved home, or under guardianship] on the _____ day of _____, was discharged therefrom [relieved or not improved] on the _____ day of _____, by the authority of _____

(Signed)

Superintendent, Clerk, or the person
having charge of the said patient.

Dated the _____ day of _____

To the Board of Control.

FORM R5.

[Name of Certified Institution, Certified House, Approved Home, or Dwelling where a patient is under guardianship.]

NOTICE OF ESCAPE.

I hereby give you notice that , a private [or aided, or criminal] patient received into this certified institution [or certified house, or approved home, or under guardianship] on the day of , escaped therefrom on the day of .

The state of mind of the patient at the time of his escape was as follows [describe it].

The circumstances and manner of the escape were as follows [state them].

(Signed)

Superintendent, Clerk, or the person having charge of the said patient.

Dated the day of .

To the Board of Control.

FORM R6.

[Name of Certified Institution, Certified House, Approved Home, or Dwelling where a patient is under guardianship.]

NOTICE OF RECAPTURE.

I hereby give notice that , a private [or aided, or criminal] patient who was received into this certified institution [or certified house, or approved home, or under guardianship] on the day of , and escaped therefrom on the day of , was on the day of recaptured under the following circumstances [state them].

(Signed)

Superintendent, Clerk, or the person having charge of the said patient.

Dated the day of .

To the Board of Control.

FORM R7.

[Name of Certified Institution, Certified House, Approved Home or Dwelling where a patient is under guardianship.]

NOTICE OF DEATH.

Date of reception order, the day of .

I hereby give you notice that , a [private, aided or criminal] patient received into this Certified Institution [or Certified

FORM R8.

NAMES of all aided* patients in the Certified Institution, Certified House or Approved Home at _____, on the 1st day of January or July _____.

Note.—Male and female patients must be returned in separate lists. The names must be in alphabetical order of the initial letters, and those of each initial in order of date of admission.

Names.	Date of Admission.	Payments.	By whom Paid.

This is a correct list.

(Signed)

Superintendent.

Dated the _____ day of _____

FORM R9.

NAMES of all private† patients in the Institution, Certified House or Approved Home at _____, on the 1st day of January or July _____.

Note.—Male and female patients must be returned in separate lists. The names must be in alphabetical order of the initial letters, and those of each initial in order of date of admission.

Names of Private Patients.	Date of Admission.	Payments.

This is a correct list.

(Signed)

Superintendent.

Dated the _____ day of _____

* An "aided" patient is one wholly or partly maintained out of public funds.
 † A "private" patient is one wholly maintained out of private funds.

FORM R12.

REGISTER OF MECHANICAL RESTRAINT.

Date.	Names of Patients.		Means of Restraint Employed.	Duration in Hours	Certificate of Medical Officer stating Grounds upon which the Restraint was employed.
	Male.	Female.			
					I certify that restraint was employed in this case on the following grounds :— (Signed) Medical Officer.
					I certify that restraint was employed in this case on the following grounds :— (Signed) Medical Officer.
					I certify that restraint was employed in this case on the following grounds :— (Signed) Medical Officer.

FORM R13.

MEDICAL JOURNAL TO BE KEPT AT CERTIFIED INSTITUTIONS, CERTIFIED
HOUSES, AND APPROVED HOMES.

Date.	Number of Patients.		Patients who are or since the last Entry have been in Seclusion, when, and for what Period, and Reasons.		Patients under Medical or Surgical Treatment, and for what reason.		Deaths. All Injuries to Patients since the last Entry, how caused and in whose presence.
	Males.	Females.	Males.	Females.	Males.	Females.	

FORM R14.

MEDICAL JOURNAL FOR PATIENTS UNDER GUARDIANSHIP AND FOR
SINGLE PATIENTS.

Date.	Mental Condition. Any and what change since last visit.	Bodily Health and Condition.	Seclusion since last visit; when and for how long.	Visits of Friends; date of visit; name of Friend.	State of House and Furniture, Bed and Bedding. Supply and condition of wearing apparel.	Is the Dietary proper? if not, state in what respect.	Employment, exercise, and recreation.

INDEX.

[For all references relating to Mental Deficiency, see Mental Deficiency.]

- ABROAD,
removal to and detention of lunatics, 218.
- ABSENCE. *See* LEAVE OF ABSENCE.
from union, effect of, 405 *seq.*
- ABUSE,
female criminal lunatic of, 685.
female lunatic of, 65, 434.
- ACCESS,
lunatic to by friends or relatives, 208.
Local Authority and Guardians, 424, 425.
medical witnesses of, to lunatic, 243.
to lunatic for purposes of litigation, 209.
- ACCOUNTS. *See* COMMITTEE OF ESTATE; COMMITTEE OF PERSON; RECEIVER; COUNTY ASYLUM, ETC.
- ACT OF BANKRUPTCY, 265, 266.
- ACTIONS,
against persons putting the Act in force, 438.
by person who has been detained as a lunatic, 439.
lunatics, by and against, 263 *seq.*
Visiting Committee of Asylum, to be in name of their clerk, 314.
- ADJUDICATION. *See* SETTLEMENT.
- ADMINISTRATION AND MANAGEMENT OF LUNATIC'S ESTATE.
See also RECEIVER; INQUISITION; COMMITTEE OF ESTATE.
applications as to, by summons, 148.
application of section 116 of the Lunacy Act, 1890, to what persons, 260, 261, 262.
costs of, master's orders as to, 146.
Judge in Lunacy, powers and authority of, extend to property in any British possession, 145, 256.
jurisdiction of judge extended to Master, 140, 146.
Scotland and Ireland, Acts extend to, in small estates, without cognition or inquisition, 145, 283.
- ADMINISTRATION OF ESTATE OF DECEASED PAUPER LUNATIC,
generally as to, 416, 417.
- ADMINISTRATIVE COUNTY,
definition of, 359.
- ADMINISTRATIVE COUNTIES,
which are, 359, 360.

INDEX.

- ADMIRALTY,
definition of (Criminal Lunatics Act, 1884), 734.
- ADMISSION OF CRIMINAL PATIENT,
form of notice of, 546.
- ADMISSION OF PATIENT INTO INSTITUTION,
entries to be made upon, 60.
notices to be sent on, 60, 61.
- ADMISSION OF PATIENTS, GENERAL. *See also* SINGLE PATIENT.
Reception Order and Documents accompanying, to be delivered to
Receiving Authority, 38.
- ADMISSION OF PAUPER PATIENT,
form of notice of, 546.
- ADMISSION OF PRIVATE PATIENT,
form of notice of, 547.
- ADMITTANCE TO COPYHOLD, 277.
fines upon, 278.
- ADVERTISEMENTS,
issue of, by direction of masters, 651.
- AFFIDAVIT,
documents of, where next friend cannot be ordered to file, 645.
examination of deponent, 651.
fitness of proposed Receiver, of, 147.
form of, 651.
kindred and fortune, of, 147.
medical, in support of summons for appointment of Receiver, 147.
service of, 644.
- AGREEMENT TO UNITE BY LOCAL AUTHORITIES, 16, 361.
See also MENTAL DEFICIENCY ; LOCAL AUTHORITY.
alteration of, 17, 364.
copies of, to whom to be sent, 365.
dissolution of, 18, 19, 376.
form of, 468.
requirements of, 17, 363, 364, 365.
visitors to be chosen after, 365.
- ALIEN LUNATIC,
inquisition may be directed against, 241.
removal of, to own country, 226, 227.
warrant for, sufficient authority for master
of vessel to detain, 227.
- ALTERATIONS AND ADDITIONS,
asylum of, for accommodation of private patients, 20, 368.
licensed houses, to, consent to be obtained for, 7, 341, 540.
- AMALGAMATION,
Commissioners in Lunacy, Chancery Visitors, and Masters in Lunacy, of, 3
- AMALGAMATION OF LUNACY DEPARTMENTS, 3, 444, 445.
- AMENDMENT OF RECEPTION ORDER AND PAPERS ACCOM-
PANYING, 56, 194, 195.
- ANNUAL REPORTS,
Board of Control, of, 4.
- ANNUAL RETURN,
lunatics chargeable to Guardians, form of, 555.
lunatics of, Clerk to the Guardians, by, 538

INDEX.

- ANNUITY,**
payable by public department, 442.
- APPEALS.** *See also* SETTLEMENT, ADJUDICATION OF; GUARDIANS; CRIMINAL LUNATIC.
from certificate of Master to Judge, form of notice of, 663.
from orders of Master to Judge, 146.
form of notice of, 663.
other than those against adjudication of settlement, 436.
- APPLICATIONS.** *See also* LEAVE OF ABSENCE.
license and renewal, for, how made, 5, 6.
license, renewal of list of names of patients to accompany, 7.
- APPLICATIONS UNDER THE LUNACY ACTS,**
when to be by summons, 639.
- APPORTIONMENT OF EXPENSES OF DISTRICT ASYLUM,** 364.
- ARBITRATION,**
questions relating to lunatic asylums between local authorities may be referred to, 477, 478.
- ARCHITECT'S FEES,**
when payable, 366.
- ARRAIGNMENT,**
prisoner found insane on, 692.
- ASSAULTS,** 438. *See also* ILL-TREATMENT AND ABUSE; CARNAL ABUSE.
- ASSESSMENT OF ASYLUMS,** 373.
- ASYLUM.** *See also* COUNTY ASYLUM.
alterations and additions to, for accommodation of private patients, 20.
books and accounts in, 387.
chaplain to, how appointed, 384.
license revocable by Bishop, 386.
performance of Divine Service by, 387.
clerk to, accounts of, 387.
how appointed, 24, 385.
definition of, 447.
Dissenting Minister, when to be appointed, 24, 385.
Divine Service in, 387.
local authority, of, may be outside administrative area, 19.
medical officer to, how appointed, 24, 384.
officers of, how appointed, 23, 24, 25, 384.
salaries, wages, and remuneration of, 386.
and servants, superannuation of, 25.
private patients in, profits arising out of, how applied, 20.
rating of, 23, 373.
removal of officers of, 385, 386.
rules and regulations for government of, 23, 383.
superintendent to, how appointed, 24, 384.
treasurer to, how appointed, 24, 385.
accounts of, 387.
visitation of. *See* VISITATION.
visiting physician or surgeon to, how appointed, 24, 386.
when full, 42.
- ATTACHMENT,**
writ of, to issue out of central office, 657.
- ATTESTATION PAPERS,**
of soldiers and sailors, are evidence of settlement, 182.
- ATTORNEY-GENERAL,**
consent of, to proceedings under Act, 430, 435.

INDEX.

- AUGMENTED CURES,
agreements as to, which lunatic might have entered into, if sane, 274.
- BANK, THE,
definition of, 447.
payment by, of funds to Relieving Officer, etc., 412, 413.
- BANKRUPTCY,
act of, 265, 266.
lunatics of, 265, 266.
- BENEFIT SOCIETY,
payment by, of funds to Relieving Officer, etc., 412, 413.
- BOARD OF CONTROL. *See also* COMMISSIONERS IN LUNACY ; MENTAL DEFICIENCY ; BOARD OF CONTROL.
constitution of, 3, 300, 301, 302, 780 *seq.*
powers may in some cases be exercised by one Commissioner, in place of two or more, 300, 301, 302.
reports of, Lord Chancellor, to, annual, 4, 306.
every six months, 4, 306.
to be laid before Parliament, 306.
rules of, new, to be laid before Parliament, 4.
power to make, 4.
transfer to, of powers formerly exercised by Commissioners in Lunacy, 300, 301, 302.
visitation by. *See* VISITATION.
- BOARDERS. *See* VOLUNTARY BOARDERS.
- BOARDING-OUT LUNATICS,
generally as to, 219.
- BOOKS TO BE KEPT. *See* INSTITUTION FOR LUNATICS ; SINGLE PATIENT ; WORKHOUSE.
- BOROUGHES. *See also* NON-CONTRIBUTORY BOROUGHES.
when ceases to be a local authority becomes annexed to county for purposes of Act, 476, 477.
- BOROUGH ASYLUMS. *See* ASYLUMS AND COUNTY ASYLUMS.
- BOROUGH COUNCIL,
liability of, as to asylum accommodation, 362, 363.
powers to provide separate asylum accommodation, 362.
- BORROWING POWERS,
local authority, of, 23, 381 *seq.*
- BRITISH POSSESSION,
definition of (Colonial Prisoners Removal Act), 718.
- BRITISH SUBJECT,
removal of, to asylum abroad, 218.
- BUILDINGS AND REPAIRS FUND,
creation of, 22.
separate accounts for, 22.
- BURIAL,
pauper lunatic, of, expenses of, by whom payable, 80.
- BURIAL FEES,
when payable, 370, 371.
- BURIAL GROUNDS,
provision of, by Visiting Committee, 20, 21, 369.
Secretary of State's consent to, 21, 369.

INDEX.

BUSINESS OF LUNATIC,

may be carried on by committee or receiver, 272.

CAPITAL,

application of, for lunatic's maintenance, 262.

CARNAL ABUSE OF FEMALE LUNATIC, 65, 434, 685.

CASE BOOK,

death, copy of statement as to, to be made in, 536.

entries to be made in, 62, 530, 531.

copies of, to be supplied to Board on request, 531.

medical officer of institution, must keep, 61, 62.

to be kept in every institution for lunatics, 556.

voluntary boarders, for, 531.

CERTIFICATE. *See also* MEDICAL CERTIFICATE.

Master's, of, as to payment, etc., of funds, 297.

pauper lunatic in a workhouse, as to, form of, 461.

personal interview with judicial authority prejudicial, form of, 460.

CERTIORARI. *See also* MANDAMUS.

reception order, not of such a judicial nature as to be removable by, 176.

CHAIRMAN OF GUARDIANS,

power to sign reception orders, 486.

CHANCERY DIVISION,

jurisdiction of, 262.

CHANCERY PATIENT. *See* LUNATIC SO FOUND.

CHANCERY VISITORS,

annual report of, to Lord Chancellor, 654.

appointment of, 127, 307.

Board of, to be formed with Masters, 128, 308.

clerks and officers of, 128, 307.

disqualifications for, 128, 307.

inquiries by, as to maintenance of lunatic, 653.

removal of, by Lord Chancellor, 128, 307.

reports of, as to maintenance of lunatic, 653.

consideration of Board of Visitors
upon, 653.

to be destroyed on death of patient, or inquisition superseded,
321.

to be kept secret, 139, 320.

to Lord Chancellor, 128, 319, 320.

salaries of, 128, 307.

special visitation of, to lunatics by Master's order, 129, 319, 668.

temporary absence or illness of, provision for, 128, 308.

vacancies, how filled, 128, 307.

visitation of, lunatics so found, to, 128, 319.

lunatics, to, for the management of whose estate a receiver
has been appointed, 128, 319.

person with reference to whom an order is pending for
administration of his estate, to, 149.

CHANGE OF MEDICAL STAFF,

notice of, to be sent to Board, 537.

CHANGE OF RESIDENCE,

lunatic of, to be sent to Chancery Visitors, 669.

CHAPLAIN. *See also* ASYLUM.

asylum, to, how appointed, 23, 24, 384.

INDEX.

CHARGEABILITY,

- criminal lunatic who becomes pauper lunatic, of, 689, 690, 724.
- pauper lunatic of, adjudged to county or borough, no appeal against order, 117.
 - but order may be obtained as to settlement, 117, 118.
- order as to, by justices, 114.
- part payment of maintenance charges by council of county, 394.
- what union or parish, primarily liable, 111, 112, 393.
- private patient, of, who becomes destitute while in institution, 112.

CHARGING OF LUNATIC'S ESTATE, 266, 269, 270.

CHARGING ORDER,

- lunatic's estate, on, does not prevent an order being made for maintenance although creditor's security be destroyed, 265.
- property, on, 264, 265.

CHARITABLE ESTABLISHMENT,

- lunatic in, 334.

CHARITY COMMISSIONERS,

- definition of, 353.

CHOSE IN ACTION OF LUNATIC,

- transfer of right of, 291, 292.

CHRISTMAS DAY,

- exclusion of, 636, 637.
- when included, 637.

CHRONIC LUNATIC,

- guardians may receive into workhouse from asylum, and lunatic remains on books of asylum, 186, 187.

CIRCULAR LETTER OF THE COMMISSIONERS IN LUNACY,

- 16th April, 1890..570—577.
- 19th April, 1893..578—586.

CIRCULAR LETTER OF THE LOCAL GOVERNMENT BOARD,

- 23rd April, 1890..586—598.

CIVIL REGISTER OF PATIENTS,

- entries to be made in, 60, 557.
- form of, 588.
- to be kept in every institution for lunatics, 556.

CIVIL SERVANT, APPLICATION OF TERM, 443.

CLASSIFICATION OF LUNATIC, 473.

CLEAR DAYS. *See* COMPUTATION OF TIME,

CLERK. *See also* ASYLUM.

- asylum, to, abstract of accounts to be made by, 24.
- accounts to be kept by, 24.
- how appointed, 24.
- audit of accounts of, 24.
- definition of, 447.

CLERK OF THE PEACE,

- duty of, acts as clerk to visitors of licensed houses, 11.
- appointments of visitors of licensed houses to be notified to Board, 11.

INDEX.

CLERK OF THE PEACE—*continued.*

- duty of, copies of endorsement of transfer of license to be sent to Board of Control, 8.
 - licenses to be sent to Board of Control, 7, 343.
- notice of appointment of clerk to visitors of licensed house to Board, 11.
- on application for licenses, 6, 341.
- record of specially appointed justices, to keep, 29, 167.
- to keep accounts, 344.
 - audit of, 344.

CLERK TO THE GUARDIANS,

- administration by, of lunatic's estate, by order of County Court Judge, 284.
- annual return of chargeable lunatics, to Board of Control, 126, 538.
 - clerk of local authority, 126, 538.
 - committee of visitors of asylum, 126, 538.
 - Local Government Board, 126, 538.
 - form of, 555.

CLERK TO THE VISITORS OF LICENSED HOUSES,

- assistant of, 11.
- declaration by, 11.
- salary of, 11.

COLONIES,

- property of lunatic in, jurisdiction of Judge in Lunacy as to, 256.

COLONIAL PRISONERS REMOVAL ACT, 1884..714—719.

COLONIAL SECRETARY,

- definition of (Colonial Prisoners Removal Act), 718.

COMMISSIONERS,

- Board of Control, to, power of one to act in some cases, instead of two, 5
- definition of, 447.
- visitation by. *See* VISITATION.

COMMISSIONERS IN LUNACY. *See also* BOARD OF CONTROL.

- circular letter of, 16th April, 1890..570—577.
- 19th April, 1893..578—586.
- constitution of Board of, 3, 300 *seq.*, 492.

COMMISSIONERS' REPORTS,

- copies to be sent to office of Board, 82.

COMMITTEE OF ASYLUM. *See* VISITING COMMITTEE OF ASYLUM.

COMMITTEE OF ESTATE,

- accounts of, 142, 143, 152, 153, 648, 649, 656.
- agent of lunatic, is, 272, 273.
- appointment of, 140, 250.
- custody may be continued by surviving committee where more than one appointed, 647.
- discharge or death of, 143, 144.
- exercise of powers by, power vested in lunatic as trustee or guardian, of, 148.
- new, appointment of, 143, 144, 649.
- passing of accounts of, on death of lunatic, 153, 649, 650.
 - issue of supersedeas, 152, 649, 650.
- payments by, out of what account, 656.
- receiving order in bankruptcy against, or if compounds with creditors, 143, 144.
- relatives preferred to strangers, but no absolute right, 253.
- security of, 140, 141, 252, 253.
 - approval by Master of, 647, 648.
 - discharge of, 143, 669.

INDEX.

COMMITTEE OF PERSON,-

- appointment of, 137, 252.
 - only by inquisition held, 129.
- change of address of lunatic, to notify, 138, 669.
- custody may be continued by surviving Committee where more than one appointed, 647.
- death or discharge of, 137.
- duties of, 138.
- expenditure by, report as to, 654.
- half-yearly report of, 138.
- relatives preferred to strangers, but no absolute right, 253.
- report by, as to health of patient, 654.
- security by, is not required, 138.
- summoning of, to Board of Visitors, 654.

COMMITTEE FOR THE CARE OF THE MENTALLY DEFECTIVE, when may act as visiting committee to asylums, 818.

COMPULSORY PURCHASE OF LAND, for asylum purposes, 371.

COMPUTATION OF TIME,

- clear days, 528.
- days, in numbers of, Sundays, etc., when to be included, 157.
 - number of, how computed, as to inclusion of last and exclusion of first day, 637.
- fractions of a day, 637.
- month, meaning of, 636.
- one year, in the case of reception orders, 198.
- seven days, from date, in the case of urgency orders, 169.
- Sundays, Christmas Day, and Good Friday, when excluded, 636, 637.
 - when included, 637.
- when period expires on Sunday or close day, 637.

CONSTABLE,

- apprehension of wandering lunatic, by, 173.
- conveyance of lunatic to institution by, 472.
- information of, as to lunatic not under care and control, 170.
- removal of lunatic to workhouse, by, 179.

CONSTITUTION,

- Board of Control, of, 3.
- Commissioners in Lunacy, of Board of, 3.

CONSTRUCTION OF RULES, 445.

CONTAGIOUS OR INFECTIOUS DISEASES,

- exclusion of persons suffering from, into asylums, 42, 383.

CONTINGENT RIGHT,

- definition of, 447.

CONTINUATION OF RECEPTION ORDER, 197, 198.

CONTRACT,

- cancellation of, 377.
- county borough, of, reception of pauper lunatics, 16, 361.
- for purchase of lands and erection of asylum to be approved by local authority, 367.
- for purchase of lands and erection of asylum, to be approved by Secretary of State, 367, 380.
- out-county patients, for reception of, 25, 26.
- pauper lunatics, reception of, into licensed house, 10.
- performance of, when entered into before lunacy, 274.
- reception of pauper lunatics into hospitals, 14.

INDEX.

- CONTRIBUTION,
apportionment of, under agreement to unite, 364.
by borough to county asylum exempts from liability to provide asylum,
362.
- CONVERSION, 276.
- CONVEY,
definition of, 447.
- CONVEYANCE,
definition of, 447.
to whom lands acquired for purpose of Act to be conveyed, 374.
- COPIES OF DOCUMENTS,
charge for, 661.
costs of, when disallowed, 661.
folios to be numbered, 661.
request for, 660.
time for delivery of, 661.
to be on paper of convenient size and legible, 661.
where to be made, 660.
- COPYHOLDS,
admittance to, 278.
appointment of person for conveyance of, 291.
enfranchisement of, 278.
fines upon admittance, 278.
Lord's account of rents and profits, 278.
right of entry, 278.
lunatic's right of entry, 279.
receiver's and committee's right of entry, 279.
vesting orders made in case of, vest without surrender and admittance,
291.
- CORONER,
inquiries by, as to death of lunatic, 235.
- CORRESPONDENCE. *See* LETTERS OF LUNATICS.
- COSTS,
official solicitor, of, whence payable, 668.
petitions of, when not allowed, 639.
mortgagor and lunatic mortgagee, as between, 296.
payment of, order for may be made for, within six years of death of lunatic,
153, 254, 255.
refreshments upon inquisitions, not allowed, 655.
rules of Supreme Court to apply, 654.
solicitor's liability as to, 264, 655.
taxation of, by Masters, 655.
procedure upon, 655.
vesting orders, of, payment of, 296.
when payable out of estate of lunatic, 254, 255, 256, 264, 275.
where not provided for in rules, solicitors entitled as in Chancery Division,
655.
- COSTS OF MAINTENANCE,
definition of (Criminal Lunatics Act, 1884), 734.
- COUNCIL, ORDER IN,
9th March, 1914. . 301.
- COUNTY,
definition of, 448.
(Lancs. Co. Lunatic Asylums, etc., Act, 1891), 497.

INDEX.

COUNTY ASYLUM. *See also* ASYLUM.

accounts of, 479 *seq.*

private patients, 26.

general order of Local Government Board, as to financial statement, 599—616.

private patients, admission of, into, 26.

COUNTY BOROUGH,

definition of, 448.

(Lancs. Co. Lunatic Asylums, etc., Act, 1891), 498.

COUNTY COUNCIL,

definition of (Lancs. Co. Lunatic Asylums, etc., Act, 1891), 498.

grant of, as to pauper lunatics, to borough, 117.

to boroughs, in respect of pauper lunatics, 403.

to union or parish, in respect of maintenance of pauper lunatics, 112.

to union or parish, in respect of maintenance of pauper lunatics, boarded out pauper lunatics to be included, in, 112.

to union or parish, in respect of maintenance of pauper lunatics, such lunatics, removed to workhouses while on the books of the asylum, to be included, in, 112.

to union or parish, in respect of maintenance of pauper lunatics, when union or parish in more than one county, 112.

COUNTY COURT JUDGE. *See also* JUDICIAL AUTHORITY.

no power of, to order transfer of stock, 284.

order of, against property of lunatic for payment of expenses to guardians, 415.

powers of, where property of lunatic is under £200. . 149.

sale of lunatic's estate, may order, 284.

COUNTY OR BOROUGH FUND,

payment out of, in exoneration of union or parish in certain cases, 27.

CREDITORS,

generally as to rights of, 263.

CRIMINAL LUNATIC,

abuse of female, 685.

admission of, form of notice of, 546.

appeal, does not lie against special verdict of guilty but insane, 711.

application of section 116 of the Lunacy Act, 1890, to, 262.

apprehension of, 681, 694.

arraignment of, verdict of insanity, 682, 692.

proceedings after, 682, 683, 692.

asylum accommodation for, 683, 704.

may also be sent to county asylum or elsewhere, 684, 705.

chargeability of, on becoming pauper lunatic, 689, 690, 724, 725.

death sentence, under, when convict believed and found to be insane, proceedings after, 683, 721.

definition of (Colonial Prisoners Removal Act), 718, 719.

(Criminal Lunatics Act, 1884), 733.

(general), 673, 674.

(Lunacy Act, 1890), 448.

discharge of, 686, 687, 722.

absolute, 688, 722.

contribution towards maintenance, 688, 730.

duty of superintendent upon, 688, 723.

conditional, 687, 722.

contribution towards maintenance, 687, 730.

distinction between a criminal lunatic and other lunatics, 675.

escape of, 684, 685, 707, 731.

penalty for allowing, by carelessness, 685, 707, 708, 731, 732.

conniving at, 685, 707, 708, 731, 732.

INDEX.

CRIMINAL LUNATIC—*continued.*

- guilty but insane, no appeal against verdict of, 711.
 - not a conviction on indictment, 711.
 - verdict as to, 682, 710.
- Hadfield's case, 675, 691.
- half-yearly list of criminal lunatics in asylum, form of, 553.
 - to be sent to Board of Control and local authorities, 537.
- historical sketch of the law as to, 675—681.
- ill-treatment of, 685, 708.
- India, removal from, of, 682, 697, 698.
 - expenses as to, 682, 698, 699.
- insanity during custody, whether before or after conviction, proceedings upon, 683, 720, 721.
- maintenance of, costs as to, 687, 729, 730.
 - recovery of, 687.
- may become pauper lunatic, 688, 689, 723.
- recapture of, 684, 685, 707, 731, 732.
- remission to prison of, 688, 721, 722.
- removability of, when becoming pauper lunatic, 690, 726, 727, 728.
- report as to, by superintendent of asylum, 684, 722.
 - consideration thereof by Secretary of State, 684, 722.
- Secretary of State's rules for management of asylum for, 684, 705, 706.
- settlement of, appeal against order, 682, 695.
 - inquiries as to, 681, 682, 694, 695.
- special verdict as to, 710.
- statutory powers for detention of, 674.
- summary of statutes as to, 681 *seq.*
- transfer of, 685, 686, 715, 722, 728, 729.
 - from or to British possession, 686, 715, 716.
 - India, 686, 697 *seq.*
- visitation of, by minister of his own persuasion, 684, 706.
- when ceases to be, 688, 720.
 - discharged for want of prosecution, but found to be insane, 683, 692.
 - imbecile, Secretary of State may regulate treatment, 732.
 - lunatic can be prevented from becoming, by being dealt with by reception order on petition, etc., 682.
- who is not, 674.

CRIMINAL LUNATICS ACTS,

- 1800..691—693.
- 1838..694—696.
- 1884..720—736.

CRIMINAL LUNATIC ASYLUMS ACT, 1860..703—709.

CRIMINAL LUNATIC ASYLUM,

- visitation of, by Commissioners, 685, 708.
- reports as to, 685, 708.

CURATOR BONIS,

- powers of, how exercisable, 283.

DANGEROUS AND INDECENT PATIENTS,

- practice as to, 228, 229.

DAYS, NUMBER OF,

- how computed, 637.

DEATH,

- lunatic of, inquiries by Coroner as to, 235.
- entries to be made, 79, 80, 557.

INDEX.

DEATH—*continued.*

- lunatic of, form of notice of, 551, 562.
 - Masters may open and read documents deposited with them, and act thereon, 153.
 - notices to be sent, 79, 535, 536.
 - registration of, 536.
- register of, to be kept in every institution for lunatics, 556.

DEBTS OF LUNATIC,

- inquiries to be made as to, 641.

DECLARATION,

- to be made by assistants to the clerk of the visitors, 456.
 - Master, form of, 456.

DEFECTIVES. *See also* MENTAL DEFICIENCY ; DEFECTIVE.

- transfer of, from institutions for lunatics, to institutions for defectives, and *vice versâ*, 776.

DEFINITION. *See also* MENTAL DEFICIENCY ; DEFINITION.

- Admiralty (Criminal Lunatics Act, 1884), 734.
- asylum, 447.
- bank, the, 447.
- British possession (Colonial Prisoners Removal Act), 718
- Charity Commissioners, 353.
- clerk, 447.
- Colonial Secretary (Colonial Prisoners Removal Act), 718.
- commissioners, 447.
- contingent right, 447.
- convey, conveyance, 447.
- costs of maintenance (Criminal Lunatics Act, 1884), 734.
- county, 448.
 - (Lancs. Co. Lunatic Asylums, etc., Act, 1891), 497.
 - borough, 448.
 - (Lancs. Co. Lunatic Asylums, etc., Act, 1891), 498.
 - council (Lancs. Co. Lunatic Asylums, etc., Act, 1891), 498.
- criminal lunatic (Colonial Prisoners Removal Act), 718, 719.
 - (Criminal Lunatics Act, 1884), 733.
 - (general), 673, 674.
 - (Lunacy Act, 1890), 448.
- district asylum, 448.
- dividends, 448.
- entire county (Lancs. Co. Lunatic Asylums, etc., Act, 1891), 497.
- existing (Lancs. Co. Lunatic Asylums, etc., Act, 1891), 497.
- governor (Colonial Prisoners Removal Act), 718.
- guardians, 448.
- hospital, 449.
- India (Colonial Prisoners Removal Act), 718.
- inquisition, 450.
- institution for lunatics, 450.
- justice, 450.
- land, 450.
- lease, 450.
- legislature (Colonial Prisoners Removal Act), 718.
- lunatic, 450.
- magistrate, 450.
- manager, 450.
- masters, 450.
- medical officer, 450.
- medical practitioner, 451.
- mortgage, 451.
- next-of-kin, 451.
- pauper, 452.
- paymaster-general, 452.
- possessed, 488.

INDEX.

DEFINITION—*continued.*

- prescribed, 452.
- prison (Colonial Prisoners Removal Act), 718.
(Criminal Lunatics Act, 1884), 733.
- private patient, 452.
- property, 452.
- public department, 452.
- quarter sessions, 452.
- Quarter Sessions Borough, 452.
- reception order, 453.
- relative, 453.
- Secretary of State (Colonial Prisoners Removal Act), 718.
(Criminal Lunatics Act, 1884), 733.
- seised, 488.
- sentence of imprisonment (Colonial Prisoners Removal Act), 718.
- stock, 453.
- superintendent (Criminal Lunatics Act, 1884), 734.
- transfer, 453.
- trust and trustee, 453.
- union, 454.
- visiting committee, 454.
- workhouse, 454.

DELAY IN PROCEEDINGS,

- Masters may inquire into cause of, 667.

DELIRIUM TREMENS,

- person suffering from, detention of, 183.

DESIRE BY PATIENT FOR INTERVIEW WITH JUDICIAL AUTHORITY, 38, 39, 162.

- form of, 460.

DETENTION OF ALLEGED LUNATIC,

- charitable establishment, in, 101.
- more than one not to be detained without license or consent, 429.
- order of discharge or removal of, by Lord Chancellor, 101.
 - removal and subsequent expenses,
by whom payable,
101, 102.
- without certificates, a misdemeanour, 427.
 - report as to, by order of Commissioners, 100.
 - visitation of, by Commissioners, 100, 101.
 - or other persons, on
order of Lord Chancellor or Secretary
of State, 101.

DIET,

- paupers, of, Commissioners or visitors may determine and regulate, 67, 213, 383.

DISABILITY

- of person entitled to payments from public departments, as to, 442, 443.

DISCHARGE. *See also* MENTAL DEFICIENCY; DISCHARGE.

- criminal lunatic, of, 686, 687, 722.
 - absolute, 688, 722.
 - contribution towards maintenance, 688, 730.
 - duty of superintendent upon, 688, 723.
 - conditional, 687, 722.
 - contribution towards maintenance, 687, 730.
- lunatic of, entries and notices to be made upon, 78, 79, 534, 557.
- habeas corpus, on, 230, 231.

INDEX.

DISCHARGE—*continued.*

- patient of, form of notice of, 549.
- pauper, patient of, notice may be sent by visitors of asylum of intention of, 78, 233.
- order of, authority liable for maintenance, by, 76, 228.
 - Commissioners, 76, 77, 211, 229.
 - visitors of asylum, by, 77, 232.
 - visitors of licensed house, by, 77, 232.
- restrictions on, if lunatic dangerous and unfit to be at large, 76, 228, 229.
- to care of friends, 78, 233.
- workhouse, to, 77, 78, 186.
- private patient, of, order, by, Commissioner, of, 75, 202, 211.
 - petitioner or other person, of, 74, 227, 228.
 - of, visitors of asylum by, 75, 76, 232.
 - visitors of licensed house by, 76, 232.
- restrictions on, if lunatic is dangerous and unfit to be at large, 75, 228, 229.
- service of Commissioners' order for, 75, 231, 232.
- single patient, of, 96, 227, 229.

DISCHARGES AND TRANSFERS,

- register of, to be kept in every institution for lunatics, 556.

DISMISSAL OF PERSON EMPLOYED IN CONNECTION WITH THE CARE OF PATIENTS,

- notice to be sent to the Board, 9, 14, 25, 535.

DISMISSAL OF PETITION, 160, 161.

DISSENTING MINISTERS,

- asylums to, how appointed, 25.

DISTRICT ASYLUM,

- apportionment of expenses of repairs, 375.
- consent of all parties to agreement required for enlargement or improvement of, 368.
- definition of, 448.
- not to be enlarged or improved without consent of all parties to agreement, 20.
- repairs of, how expenses apportioned, 22.

DISTRICT MEDICAL OFFICER,

- quarterly return of, as to pauper lunatics by, form of, 554.
 - not in institutions, who have been visited, 110, 537.
 - not in institutions, who have been visited, copies of, to be sent to Board of Control and clerk to Visiting Committee of Asylum, by clerk to Guardians, 110.
- visitation of, to pauper lunatics, boarded out with friends, report as to, 109, 110.
 - boarded out with friends, report as to fees payable for, 110.
 - not in institutions, 109.
 - fees payable for, 109.

DIVIDENDS,

- definition of, 448.
- of lunatic joint stockholder, 286

DIVINE SERVICE,

- asylum, in, 387.

INDEX.

- DOMICILED FOREIGNER,**
resident in England, jurisdiction of Court in case of, 637.
temporarily residing in England, jurisdiction as to, 241.
- DURHAM PALATINE COURT,**
jurisdiction of, 414.
- EASEMENT,** 273.
- ELECTION,**
by Committee or Receiver, 277.
- EMPLOYMENT,**
males of, in case of females, not lawful except when necessary, 65.
- ENFRANCHISEMENT,** 278.
- ENTIRE COUNTY,**
definition of (Lancs. Co. Lunatic Asylums, etc., Act, 1891), 497.
- ERRORS AND OMISSIONS,**
rectification of, in documents by judge or master, 647.
- ESCAPE OF CRIMINAL LUNATIC,** 684, 685, 707, 731, 732.
penalty for allowing by carelessness, 685, 707, 708, 731, 732.
conniving at, 685, 707, 708, 731, 732.
- ESCAPE OF LUNATIC,** 67, 68, 237. *See also* MENTAL DEFICIENCY ; **ESCAPE OF DEFECTIVE.**
England or Ireland, into, from Scotland, 238.
recapture of, 239.
Scotland, into, from Ireland, 239.
recapture of, 239, 240.
form of notice of, 549.
notice of, to be sent to Board of Control, 68, 534.
Chancery Visitors, 69.
Visitors of Licensed House, 68, 534.
penalty for connivance at, 434.
recapture of, 67, 68, 237, 238.
notice as to, 534.
Scotland or Ireland, into, from England, 67, 68, 238.
recapture of, 67, 68, 238.
- ESTATE TAIL,**
where lunatic tenant, 272.
- EVIDENCE,**
access of medical witnesses, 243.
condition of prisoner's mind, as to, should not be called by Crown as part of their case, 712.
direction of Masters as to how to be taken, 651.
duplicate, unnecessary, where proceedings are for the management of the estates of persons of the same family, 136, 137, 643.
examination of deponent to affidavit, 651.
lunatic of, admissibility of, 434.
medical report, which doctor was prepared to give, is privileged from inspection by alleged lunatic or his agent, 244.
office copies of orders, etc., admissible as, 150, 297.
registration of hospital or license of house of, 437.
medical practitioner of, medical register is, 451.
sending of notices, reports, etc., as to, 437.
- EXCHANGE,**
lunatic's property of, orders as to, 147, 272.
when lunatic limited owner, 272.

INDEX.

- EXECUTION,
writ of, to issue out of central office, 151, 657.
- EXISTENCE OF MENTAL DEFICIENCY,
does not necessarily entitle jury to return special verdict, 712.
- EXISTING,
definition of (Lancs. Co. Lunatic Asylums, etc., Act), 497.
- EX PARTE PROCEEDINGS,
not to be reopened except upon special application, 652.
- EXPENSES. *See also* MAINTENANCE.
local authority of, provisions for raising, 380.
payment of, by local authority to treasurer of asylum, 23.
- FALSE ENTRIES,
a misdemeanour, 430.
- FAMILY OF LUNATIC,
orders for maintenance of, 267, 268, 645.
- FEES AND PERCENTAGES,
Treasury order as to, 671, 672.
- FINES UPON ADMITTANCE TO COPYHOLD ESTATE, 278.
- FRIEND,
visit of, order of admission to patient given by Commissioner or visitor,
66, 67, 208, 209.
- FRIENDLY SOCIETY,
payment from, 414.
- FUNDS IN COURT,
notice of dealing with, 647.
- GENERAL ORDER OF THE LOCAL GOVERNMENT BOARD,
15th September, 1892..599—616.
24th March, 1893..616—635.
- GOOD FRIDAY,
exclusion of, 636, 637.
when included, 637.
- GOVERNOR,
definition of (Colonial Prisoners Removal Act), 718.
- GUARDIANS. *See also* CLERK TO THE GUARDIANS.
access to lunatic by, 424, 425.
appeal of, against adjudication of settlement, 418.
claim against, to be made within half-year, 426.
by, on order of adjudication of lunatic, 399.
definition of, 448.
liability of, for act of relieving officer, 412.
payments by, on account of lunatic, to be recovered from lunatic or his
estate, or person liable to maintain, 55, 393.
seizure of lunatic's property by, 415.
- GUILTY BUT INSANE,
mere mental deficiency does not necessarily entitle jury to return special
verdict of, 712.
no appeal against verdict of, 711.
not a conviction on indictment, 711.
verdict as to, in case of criminal lunatic, 682, 710.

INDEX.

- HABEAS CORPUS**,
discharge of lunatic on, 230, 231.
- HALF-YEARLY LIST**,
criminal lunatics of, in asylum, form of, 553.
patients in asylums of, private and paupers, copies of, where to be sent, 537.
- HALF-YEARLY LIST OF PAUPER PATIENTS**,
clerk of asylum to prepare list of, 63, 64.
- HALF-YEARLY LIST OF PRIVATE PATIENTS**,
clerk of asylum to prepare list of, 64, 553.
- HALF-YEARLY MEDICAL STATEMENT**,
pauper patients of, 64.
- HALF-YEARLY RETURN**,
pauper patients of, form of, 552, 553.
- HALF-YEARLY STATEMENT AS TO PAUPER LUNATICS**, 537.
- HEADING OF SUMMONSES, ETC.**, 662.
- HEALTH.** *See* LEAVE OF ABSENCE, UNDER PROPER CONTROL.
- HEIR AT LAW**,
enquiry as to, 642.
- HOSPITALS**,
accounts of, 13, 14, 353, 541.
alterations and additions to, notice to be sent to Board of Control, 13, 541.
control of patients of, when outside hospital, 13, 484.
definition of, 12, 449.
dismissal of servants of, 14.
limit as to number of patients in, 351.
medical practitioner to be superintendent of, 13, 348.
officers of, disqualified to be on committee, 13.
persons disqualified to be members of committee of, 353.
plans of, no building to be deemed part of hospital for reception of patients unless shown on, 352.
to be sent to Board of Control, 12, 541.
registration of, 12, 348 *seq.*
regulations of, 13, 351, 352, 354.
copy to be sent to Board of Control, 352.
may be altered by committee with consent of Secretary of State, 476.
to be hung up in visitors' room of, 352.
submitted to Secretary of State, 12, 341.
superannuation of officers or servants of, 14, 353.
visitation of. *See* VISITATION.
- HUSBAND**,
liability of, for maintenance of wife, 409, 410.
no absolute right of, to be appointed committee or receiver to wife's estate, 641.
- IDIOTS**,
how regarded in law, 748.
- ILLEGITIMACY**,
child, irremovability of, 407.
- ILL-TREATMENT**,
criminal lunatic of, 685, 708.
lunatic, of, 65. (*See also* CARNAL ABUSE OF FEMALE LUNATIC.)
a misdemeanour, 432.

INDEX.

- IMBECILES,
when criminal, Secretary of State may regulate treatment, 732.
- IMMEDIATE JURISDICTION OF COMMISSIONERS,
places within, 469.
- IMPRISONMENT,
residence not broken by, 405.
- IMPROVEMENTS, PERMANENT,
charge on lunatic's property for, 269, 270.
- INCAPACITY,
of person to manage affairs but not himself, entitled to payment from public department, certificate of justice or minister of religion and medical certificate, as to, 442, 443.
- INCAPACITY NOT AMOUNTING TO LUNACY,
application of act to person suffering from, 261.
notice of summons respecting person suffering from, form of, 666.
form of notice of objection to, 666.
provision of rules as to person suffering from, 645.
- INCUMBRANCE,
discharge of, 266, 267.
- INDECENT PATIENTS. *See* DANGEROUS AND INDECENT PATIENTS.
- INDEMNITY OF TRUSTEE, OR BANK OF ENGLAND, SOCIETY, ETC.,
in respect of payments made to relieving officer, etc., on account of pauper lunatic, 125, 412.
- INDEMNITY TO BANK AND OTHERS FOR THINGS DONE IN PURSUANCE OF ACT, 442.
- INDIA,
definition of (Colonial Prisoners Removal Act), 718.
removal of lunatic from, 682, 697, 698.
- INFANT NEXT-OF-KIN,
appointment of guardian of, 643.
- INFECTIOUS DISEASES,
lunatic suffering from, may be excluded from admission to asylum, 383.
- INFORMATION,
to be sworn by relieving officer, etc., as to lunatic not under proper care and control or cruelly neglected, 40, 41.
- INFRINGEMENT, license, of terms of, 8, 9.
- INQUESTS, 235.
burial of body, 236.
fees of medical witnesses, 236.
- INQUIRIES AS TO PROPERTY OF LUNATIC. *See also* MASTERS IN LUNACY.
representation to Lord Chancellor by Commissioners, 211.
- INQUISITION, application for, 129, 241, 638.
to be made by petition, 129, 638.
committee of person, need not necessarily be appointed, 137, 254.
definition of, 450.
jury, demand for, by alleged lunatic, 131, 241, 640.
form of, 664.

INDEX.

INQUISITION—*continued.*

- leave to traverse is a matter of right, if *bond fide*, 638.
- Master may direct who shall attend proceedings, 136.
- notice of application for, to alleged lunatic, 129, 130, 640.
 - service of, 130, 640.
- notice of application for, unnecessary in case of alleged lunatic out of jurisdiction, 130, 245.
- now rarely held, 129, 212, 241.
- order for, 129, 141.
- petition for, Masters may direct, 667.
 - not required, when inquisition is the result of Commissioners' report, 130, 246.
 - order for, form for, 663.
 - notice of, form of, 663.
 - ordered by Masters, 131.
 - procedure on hearing, 131, 132, 242, 243, 486, 487.
 - to be brought before Judge without previous consideration by Master, 131.
 - to be filed in Master's office, 129, 638.
- proceedings after, 134 *seq.*, 640 *seq.*
 - inquiries as to lunatic's property, etc., 134, 135, 640, 641.
 - next-of-kin and heir-at-law, 135, 640.
 - special inquiries by Masters, 135.
- recent statistics as to number of cases, 129.
- relating to members of same family, duplicate evidence unnecessary, 136.
- supersedes of, 151, 152, 249.
 - as to person but not estate, 152, 248.
 - transcript of writ issued in England or Ireland, transmission of, 152, 249.
- traverse of, application for, by petition, 133.
 - subsequent trial, 134, 246, 247.
- verdict to issue tried in High Court, not allowed, 134, 247.
- trial of issue, proceedings limited to question of insanity, 132, 245.
 - procedure on, 132, 133.

INSANE PRISONER BECOMING PAUPER LUNATIC, 688, 689, 723.

INSANITY AND CRIME. *See* CRIMINAL LUNATIC.

INSPECTION OF DOCUMENTS, 643, 644.

INSTITUTION FOR LUNATICS,

- books to be kept in, 59, 60.
- books to be kept, registers and medical journals for private and pauper patients to be kept separate, 60.
- definition of, 450.

INTENTION OF PERSON WHILE SANE MAY BE GIVEN EFFECT TO IN LUNACY, 266, 268.

INTEREST,

- licensed house, in, disqualification for certain offices, 4.
- lunatic of, not to be altered through any sale, etc., 275.

INTERIM MAINTENANCE,

- provision for, 645.

INTERVIEW,

- right of private patient to have, with Judicial Authority, 162.
 - when prejudicial, 162.
- personal interview with visiting commissioner or visitor, 66, 162, 206.
- personal interview with visiting commissioner or visitor, notice of, to be posted up in institution, 66, 206.

INDEX.

- INTESTACY,
lunatic of, descent of property, 276, 277.
- INVENTORY,
person holding property of lunatic to sign, 656.
- IRELAND,
extension of acts to, in administration of small estates, 145.
lands in, jurisdiction of English Court, 253.
lunatic's property in, administrative powers as to, 283, 284.
- IRREMOVABILITY,
pauper lunatic of, appeal on question of, 119, 419.
payment of expenses of, 124.
status of, at time of removal of lunatic governs liability, 408, 409.
how acquired, 405 *seq.*
how affected by relief given to wife or child, 406.
- JOINT PROPRIETORSHIP,
joint proprietors allowed to separate, 7.
- JOINT STOCKHOLDER,
dividends of lunatic, 286.
- JUDGE IN LUNACY,
administrative powers of, 147.
jurisdiction of, by whom exercised, 127, 250.
powers and authority of, extend to property in any British possession, 145, 256.
- JUDGE OF COUNTY COURT,
power to administer small estates, 284, 285.
shall not be required to exercise powers under Act to prejudice of ordinary jurisdiction, 165, 568.
form of certificate as to, 568.
- JUDGMENT CREDITOR OF LUNATIC, 264, 265, 266.
- JUDICIAL AUTHORITY. *See also* JUDGE OF COUNTY COURT; MAGISTRATE;
JUSTICE OF THE PEACE SPECIALLY APPOINTED; MENTAL DEFICIENCY,
JUDICIAL AUTHORITY.
definition of, 164.
disqualification of, to respond to notice of desire for personal interview,
if signed original order, 38, 162, 164.
documents, may inspect, on visitation to patient, in response to notice of
desire for personal interview, 39, 163.
duty of, to select medical practitioner to examine lunatic, 175.
under Lunacy Acts, not altered by Mental Deficiency Act, 789.
jurisdiction of, 165, 474, 485.
lunatic not under proper care and control, or cruelly treated or neglected,
direction to medical practitioners to examine, 171.
form of reception order for, 464.
visitation of, by, and duty thereon, 41, 171.
may make orders for payments by guardians of unions, outside juris-
diction, 404.
summary reception order for admission of pauper to asylum
to which workhouse belongs, when workhouse in another
county, 474.
not act on his own knowledge as to lunacy, 171.
obligation of, to see alleged lunatic before signing summary reception
order, 45, 48, 174.
order by, for lunatic in workhouse to be brought before, 50.
to be brought before, 173, 174.
for reception of lunatic, not to be signed until medical certificate
signed, 175.

INDEX.

JUDICIAL AUTHORITY—*continued.*

- order by, for reception of lunatic wandering at large, 174.
 - form of, 463.
- recovery of expenses from lunatic's estate, 411.
- pauper lunatic brought before, medical practitioner to be called in, by, 44, 45, 47, 48, 174.
 - examination of, at his abode, by, 177.
 - medical practitioner to be called in, 177.
 - privacy of examination of, by, 175, 177, 178.
- personal interview with, by patient after admission, 38, 39, 162.
 - report as to, 163.
 - result of, 163.
- petition, adjournment of consideration of, 37, 158, 160.
 - consideration of, by, 35, 36, 37, 158, 159, 160.
 - time allowed for, 36, 158.
 - dismissal of, procedure by, 37, 160, 161.
 - power to transfer, 35, 485.
 - privacy of hearing of, 36, 37, 159.
- powers of, on summary reception order, as if petition presented, 41.
 - who may exercise, 28.
- procedure of, summary reception orders, on, 41.
- reception order of, petition on, form of, 458.
 - information concerning, to be supplied to Board of Control when required, 161.
 - visitation of alleged lunatic before signing order, discretionary, 159.
 - subsequent approval of, when signed by justice not specially appointed, 485.
- summary reception order by, evidence of destitution when required by, 178, 179.
 - when may make, 41, 42, 171.
- witnesses, power to summon and swear, 37.

JURISDICTION. *See also* JUDGE IN LUNACY; MASTER IN LUNACY; COUNTY COURT JUDGE.

Commissioners, immediate jurisdiction of, places within, 469.

JURY,

- demand for, by alleged lunatic, 241.
- exemption of attendant in asylum to serve on, 385.
- inquisition, in, number of, 245.
- unanimity of, not necessary in inquisition, 245.
- when may be dispensed with, 242.

JUSTICE,

definition of, 450.

JUSTICE OF THE PEACE "SPECIALLY APPOINTED." *See also* JUDICIAL AUTHORITY.

- appointment of, 28, 29, 165, 166, 167.
 - duties on, of Clerk of Peace or Justices, 167.
 - may include all justices of county, 486.
- death, absence, etc., of, vacancies how filled, 167.
- Lord Chancellor may appoint in certain cases, 29.
- powers, exercise of, in places outside jurisdiction, 29.

KINDRED AND FORTUNE,

affidavit of, 147.

LANCASHIRE COUNTY,

- accounts of Board, 508.
 - audit of, 508.
- adaptation and application of Lunacy Acts to provisions of Lancashire County (Lunatic Asylums and other Powers) Act, 494, 501, 504.

INDEX.

LANCASHIRE COUNTY—*continued*.

- adjustment of property and debts, 513.
- alteration of basis of contribution, 521.
 - schedule to District Auditors Act, 1879. .516.
- apportionment of contributions between the county and county boroughs 522.
- borrowing powers, 509, 523.
- constitution of lunatic asylums board for, 493, 498.
- definitions under special Act. *See* DEFINITIONS.
- establishment of asylums board for, 498.
 - chairman and vice-chairman, appointment of, 500.
 - election of members, 498.
 - disqualification for, 499.
 - return of, 499.
 - term of office of, 499.
- exercise of powers by visiting committee, 504.
- expenses of fund payable out of asylum fund, 505.
- form of precept, 515, 516.
- general order of the Local Government Board, applying to, 616—635. (Lunatic Asylums and other Powers) Act, 1891. .493—516.
- (Lunatic Asylums) Act, 1902. .517—525.
- meetings and proceedings of Board, 500, 515.
- members of Board, power to alter number of, 511.
- minutes of proceedings, 500.
- officers, appointment of, 502.
- order of Commissioners, 20th August, 1890. .496.
- payment of contributions to asylum fund, 506, 507.
- provision for borough subsequently constituted a county borough, to be incorporated as if named in Act, 494, 511, 512.
 - county borough to withdraw from operation of Act, 494, 512.
 - of further asylum accommodation for, 493, 503.
- returns to Local Government Board, 508, 510, 523.
 - Board by clerk of county council, 521.
- revenue of Board carried to asylums fund, 505.
- sinking fund, 523.
- special provisions for, 493 *seq.*
- transfer of county asylums to Board, 502.
- visiting committee and other committees, appointment of, 494, 501, 502.

LANCASTER PALATINE COURT,

jurisdiction of, 413, 414.

LAND,

- definition of, 450.
- lease of, visiting committee may take, 21.
- purchase of, by visiting committee of asylum, 19, 20, 21.
- purchased for purpose of Acts, to whom conveyed, 21.
- unsuitable, local authority may dispose of, 22.

LAWFULLY DETAINED AS A LUNATIC THOUGH NOT SO FOUND BY INQUISITION,

meaning of, 260.

LEASE,

- definition of, 450.
- execution of power to, 273.
- extent of power to, 275.
- granting of, orders as to, 147.
- lunatic, of property of, allowance of Master to, to be authenticated by seal, 669.
- grant of, 273.
 - minerals, 273.

INDEX.

LEASE—*continued.*

surrender of, or acceptance of, new lease, 273.
orders as to, 147.

LEAVE OF ABSENCE,

patient not returning at expiration of, 68, 69, 70, 217.
to travel in England, 69, 215, 475.
trial on, patient of, asylum in, 18, 214, 533.
 allowance to pauper, while on, 68, 215.
 hospital in, 69, 70, 215, 533.
 allowance to pauper, while on, 70, 217.
 licensed house (Metropolitan) in, 69, 70, 215.
 (Provincial) in, 69, 70, 216.
 (Metropolitan) in, allowance to pauper,
 while on, 70, 216, 217.
 (Provincial) in, allowance to pauper,
 while on, 70, 216, 217.
 recommendation of medical officer for, 68, 69, 216, 533.
under proper control, as distinguished from leave of absence on "Trial,"
69, 216, 476.
when only for short period, asylum, for patients in, 68.
 hospitals, or licensed houses, for patients in,
 70, 217.

LEGISLATURE,

definition of (Colonial Prisoners Removal Act), 718.

LETTERS OF LUNATICS,

control over, 66, 204.
notice concerning, to be posted up in every institution receiving private
patients, 66, 206.
to whom must be sent, 65, 66, 204.
 penalty in default, 66, 204, 206.

LICENSE,

application for, 539.
charge for, 7, 8, 341, 342.
Clerk of the Peace to send copy to Board of Control, 7.
Commissioners by, licensed house not previously licensed, form of, 466.
 previously licensed, form of, 467.
conditions on which, is granted, 340.
duration of, 8
fees, how applied, 344.
infringement of terms of, 6, 343, 344
jurisdiction of Commissioners as to, 340.
 justices as to, 340.
justices by, copy of, to be sent to Board, 341.
 licensed house not previously licensed, form of, 467.
 previously licensed, 467.
new, duty of licensee, 6.
 under Lunacy Acts, cannot be granted except on substitution or
 transfer, 7, 339.
number of patients receivable on license under Lunacy Acts not to be
increased, 7.
person interested in, not to be party to granting, 340.
renewal of, 7, 337, 540.
revocation of, 9, 343.
separation of, where joint licensees, 338.
stamp for, 8, 341.
substitution of, 338.
 notices to be sent on, 343.
 restrictions on, 338.
transfer of, 8, 218.
 to new medical manager, 338, 339.
untrue statement on application for, 341.

INDEX.

LICENSED HOUSE,

- additions and alterations to, consent to be obtained for, 341, 340.
- books to be kept in, 59, 60.
- interest in, disqualification for certain offices, 4.
- provincial, how licensed, 6.
- resident medical manager, where one hundred patients or more in, 346.
- visitation of. *See* VISITATION.
- visits by medical practitioner daily, where licensed for between fifty and one hundred patients, 346.
- of medical practitioner to, when licensed for less than fifty patients, 346.
- within immediate jurisdiction of Board of Control, how licensed, 5.

LICENSEE,

- death of, 8, 341.
- incapacity of, to act, license transferable, 342.
- joint licensees' separation of, 338.
- plan of building to be hung in conspicuous part of house by, 9.
- residence on premises, 7, 340.

LICENSING AUTHORITIES,

- who are, 6.

LIEN,

- vendor's, 641.

LIMITATION. *See* STATUTE OF LIMITATIONS.

LIMITED OWNER,

- lunatic, sale of by, 271.

LITIGATION. *See* ACTIONS.

LOCAL AUTHORITY. *See also* MENTAL DEFICIENCY, LOCAL AUTHORITY ; AGREEMENT TO UNITE.

- access to lunatic by, 424, 425.
- adjudication to, of chargeability of pauper lunatic, 402.
 - no appeal against order, 402, 403.
- approval of, of plans and contract for purchase of lands and erection of asylum, 367.
- asylum of, may be outside administrative area, 19, 373.
- clerk of, duty to report on agreements to unite, 17.
- definition of, 359.
- differences between local authorities as to plans, contracts, etc., to be settled by Secretary of State, 368.
- duty of, to supply asylum accommodation, 15.
- obligation of, to provide asylum accommodation, 355.
 - not to be affected by contract for reception, of its lunatics, 378.
 - Secretary of State may enforce, 363.
- powers of, to provide asylum accommodation, 355, 356, 360.
 - for private patients, 360.
 - separate accommodation for idiots, 360.
 - separate asylums, 16.
 - to purchase land for asylum, 15, 356.
 - to unite with other local authority, 16, 360, 361.
 - apportionment of expenses, 364.
 - to retain land unsuitable for asylum accommodation, 374.
- questions between local authorities as to lunatic asylums, may be referred to arbitration, 477, 478.
- reimbursement of expenses to, from Guardians of lunatic's settlement, 403.

INDEX.

LOCAL GOVERNMENT BOARD,

- arbitrator appointed by, 476.
- circular letter of, 23rd April, 1890..586—598.
- consent of, to local authority to exercise borrowing powers, 381.
- general order of, 15th Sept., 1892..599—616.
- 24th March, 1893..616—635.

LORD CHANCELLOR,

- correspondence of lunatics with, 204.
- definition of, 166, 167.
- discharge by, of lunatic in private family or charitable establishment, 335.
- enquiry as to property of lunatic may be ordered by, 211.
- license revoked by, or renewal prohibited, 343.
- order of, with sanction of Treasury, as to payment of expenses of Masters and visitors, 258.
- special visit and examination of lunatic, by order of, 334.

LUNACY ACTS,

- short title, 492.

LUNACY ACT, 1890..155—471.

LUNACY ACT, 1890,

- extent of Act, 155.

LUNACY ACT, 1891..472—489.

LUNACY ACT, 1908..490—491.

LUNACY ACT, 1911..492.

LUNACY COMMISSION. *See* BOARD OF CONTROL AND COMMISSIONERS IN LUNACY.

LUNACY DEPARTMENTS,

- power to amalgamate, 444, 445.

LUNATIC, CRUELLY TREATED OR NEGLECTED,

- who is, 40.

LUNATIC,

- definition of, 450.
- how regarded in law, 748.
- workhouse, temporary removal to, 43, 44, 180, 181.

LUNATIC NOT SO FOUND,

- notice to of application under Lunacy Acts, form of, 665.
- objection to application under Lunacy Acts, form of notice, 665.

LUNATIC, NOT UNDER PROPER CARE AND CONTROL,

- information as to, to judicial authority, 170.
- who is, 40, 170, 173.

LUNATIC SO FOUND,

- admission of, reception order for, 140, 169, 170.
- medical reports as to, 138, 139.
- monthly report as to, not required, 475.
- reports and certificates, as to, to Masters, 259.
- extension of time for, 260.
- as to, by Chancery visitors, 139.
- to be kept secret, 139.
- when to be destroyed, 139.
- visitation of, Chancery visitors, by, 139.

LUNATICS WANDERING AT LARGE,

- apprehension of, 47, 173.
- order for reception of, 174.

LUNATICS REMOVAL (INDIA) ACT, 1851..697—702.

INDEX.

MAGISTRATE. *See also* JUDICIAL AUTHORITY.

definition of, 450.

shall not be required to exercise powers under Act to prejudice of ordinary jurisdiction, 165.

form of certificate as to, 569.

MAINTENANCE. *See also* MENTAL DEFICIENCY, MAINTENANCE, FAMILY OF LUNATIC.

lunatic of, claims for, preferred to claims of creditors, 263.

orders may be made for, to the detriment of an existing charging order, 265, 641.

pauper patient, of, expenses for, when may be made without order, 114.

order for, by justice, 113, 395.

enforcement of, 113, 114.

may be made *ex parte*, 396.

when no appeal against, 397

lunatics, of, part payment for, by council of county, 394

private patient, of, family of lunatic, provision for, 145.

orders for, 144.

payable generally out of income, 144, 145.

temporary, provision for, 145, 279, 282, 645.

provision for payment for, 266, 267, 268.

MALES,

employment of, in case of females, not lawful to employ except when necessary, 65, 213.

report thereof to Commissioners on visit, 81, 87, 213.

MANAGER,

definition of, 450.

licensed house for one hundred or more patients, must be medical practitioner, 346.

MANDAMUS,

decision of Quarter Sessions on appeal against refusal to amend grounds, or sufficiency of statement of grounds, in adjudication of settlement, not reviewable by mandamus or certiorari, 310.

MASTER OF WORKHOUSE. *See* WORKHOUSE MASTER.

MASTERS IN LUNACY,

administrative powers of, 146, 147, 256, 257, 486, 487, 637.

appeals from orders of, to Judge, 146, 491, 638.

appointment of, 127, 256, 257.

are *ex officio* visitors of lunatics, 127.

attendance in Court of, 638.

certificate of, as to lunacy, same effect as inquisition before jury, 244.

for transfer into Court of lunatic's property, 137.

Chancery visitors to be supplied with information by, 653.

clerks and officers of, 127, 257.

communication of, with Judge, 638.

declaration of, on appointment, 127, 257.

form of, 456.

definition of, 450.

deputy, appointment of, 491.

enquiries by, as to appointment of new committee, 649.

debts of lunatic, 641.

delay in proceedings, 667.

next-of-kin, 640, 642.

past dealings with lunatic's property, 642.

property of lunatic out of jurisdiction, 642.

on appointment of receiver, as to lunatic's estate, etc., 640, 641.

expenses of, 258.

investigation of report of Chancery visitors by, 653.

jurisdiction of Judge, extended to, 140, 486, 487.

INDEX.

MASTERS IN LUNACY—*continued.*

- may act jointly and severally, 638.
- administer oaths and take recognizances, 651.
- direct as to how evidence is to be taken, 651.
 - petition for inquisition, 667.
 - temporary provision for lunatic, or lunatic's family, pending proceedings, 645.
 - transfer of stock or payment of money into Court, 643.
- dispense with summons or direct summons to issue for special purpose, 653.
- issue advertisements, 651.
- orders as to costs, by, 146.
- personal examination of lunatic by, 243.
- power of, to nominate solicitor for lunacy proceedings, 643.
- register of committees and receivers, to be kept by, 648.
- report to be sent to, as to lunatics so found, 259.
 - extension of time for, 260.
- salaries of, 127, 257.
- scheme of maintenance provided by, 654.

MECHANICAL RESTRAINT,

- definition of, 203.
- lunatic in workhouse, of, 105, 106, 202, 203.
- production of means as to, 81, 86.
- register of, copy of Commissioners' regulation to be inserted in, 527, 567.
 - to be sent to Board of Control, 64, 203, 532.
 - entries to be made in, 530.
 - form of, 545.
 - to be kept, 64, 203, 529, 530, 556.
- regulation as to, 564—567.
- when may be applied, 64, 202.

MEDICAL ATTENDANT,

- disqualification of Commissioner or visitor to be, 207.
- private patient to, while detained under order, must not have signed medical certificate accompanying reception order, 207.
- single patient to. *See* SINGLE PATIENT.

MEDICAL CASE BOOK. *See* CASE BOOK.

MEDICAL CERTIFICATES. *See also* 'MENTAL DEFICIENCY, MEDICAL CERTIFICATES.

- examination of each certifying practitioner to be separate, 191.
- not to be made on facts communicated by others, alone, 36, 42, 45, 189.
 - signed by Commissioner or visitor, for the purposes of reception order, 193.
- petition, accompanying, facts in, are evidence as if on oath, 35, 190.
 - form of, 460.
 - persons disqualified from signing, 34, 192.
 - requirements of, 34, 189—193.
 - usual medical attendant should sign one, 34, 192.
- summary reception order, accompanying, 51, 171, 175.
 - facts in, are evidence as if on oath, 41, 190.
 - lunatic not under proper care and control or cruelly treated or neglected, 41, 171.
 - persons disqualified from signing, 41, 193.
- urgency order, accompanying, form of, 460.
 - persons disqualified from signing, 31, 192, 193.
 - requirements of, 31, 32, 190, 192.
 - statement attached, form of, 461.
- workhouse medical officer, of, that accommodation in workhouse is sufficient for lunatic's care, 78, 183.

INDEX.

MEDICAL EXAMINATION OF PAUPER PATIENT ON ORDER OF COMMISSIONERS, 77, 210, 211.

MEDICAL EXAMINATION OF PRIVATE PATIENT ON ORDER OF COMMISSIONERS, 75, 210, 211.

MEDICAL FEES AND EXPENSES,
payment of, on examination of alleged lunatics by order of judicial authority, 55, 392.

MEDICAL JOURNAL,
entries, institutions, in, when to be made, 61, 530.
forms of, 544.
medical officer in institution, must keep, 61, 529, 530.
single patient, entries in, in case of, 90.
to be kept in every institution for lunatics, 556.

MEDICAL MANAGER,
residence of, when necessary, 9.

MEDICAL OFFICER. *See also* DISTRICT MEDICAL OFFICER.
dangerous or indecent patients, powers of detention in cases of, 228, 229.
definition of, 450.
institution in, disqualification for, 61.
parish or union of, duty to notify relieving officer of pauper lunatic in his district, 43, 172.
to asylum, how appointed, 24.
workhouse of, quarterly visitation of pauper lunatics, 107.
returns as to, 107.

MEDICAL OFFICER OF WORKHOUSE. *See* WORKHOUSE.

MEDICAL PRACTITIONER. *See also* MEDICAL CERTIFICATE.
definition of, 451.
examination of alleged lunatic on direction of judicial authority, 41.
remuneration to, by Guardians, for examination of alleged lunatic, 184, 185.

MEDICAL REGISTER OF PATIENTS,
entries to be made in, on admission of patient, and subsequently, 60, 557.
form of, 559.
to be kept in every institution for lunatics, 556.

MEDICAL REPORTS. *See also* MEDICAL STATEMENT; MONTHLY REPORT;
SPECIAL REPORT AND CERTIFICATE.
lunatic so found, as to, 138, 139.

MEDICAL STAFF,
change of, notice to be sent to Board, 537.

MEDICAL STATEMENT,
patient ceasing to be a criminal, after, form of, 548.
pauper or criminal lunatic, as to, form of, 546.
private patient, as to, form of, 547.
when to be sent, 61, 528.

MEDICAL SUPERINTENDENT,
asylum of, how appointed, 24, 384.
removability of, 24.
to be resident, 384.
dangerous or indecent patients, powers of detention in cases of, 228, 229.

MEDICAL VISITATION,
licensed houses to, not having resident medical manager, 9.

MEDICAL VISITORS OF LICENSED HOUSES,
remuneration of, 11.

INDEX.

MEETINGS,

- Board of Control, of, licenses for granting of, 4.
- Commissioners to Board of Control of, Commissioner's request for, 4.
- licenses for granting of, by Board of Control, 4.

MENTAL DEFICIENCY,

- abuse of female defective, 813.
- access to defective, when neglected or ill-used, 775, 776.
- adjournment of petition, 760.
- administration of property of defective, 817.
- Administrative Committee, appointment of, 743, 781.
 - duties of, 743, 781.
- admission of defective, copies of documents to be sent to Board, 755.
 - notice to be sent on, 754.
 - medical statement to accompany, 755.
- agreement, Boards of Guardians and Local Authorities, between, 797.
 - for joint action by Local Authorities, 785, 798.
 - revocation or variation of, 786.
- appeal against convictions, 817.
 - as to chargeability, 805, 806.
 - to Board, right of defective to, 740, 770.
- approved home, definition of, 121.
 - management of, 741.
- approved homes, provisions as to, 810.
- ascertainment of defective children within area of Local Education Authority, 790.
 - defectives, within area of local authority, 787.
- assault on defective, 812, 813.
- bastardy, enactments as to contributions for maintenance, 774.
- Board of Control, acquisition of land, by, 796.
 - approval of premises provided by Local Authority, 797.
 - certificate as to certified houses, by, 809.
 - institutions, by, 796.
 - constitution of, 743, 780.
 - disqualification to hold office, to, 782.
 - inspectors of, appointment of, 782.
 - managers of State Institutions are, 796.
 - officers of, appointment of, 782.
 - power to summon witnesses, 817.
 - powers and duties of, 782, 783.
 - provision of State Institutions by, 796.
 - reports of, to Parliament, 783.
 - salaries of officers of, 782.
 - secretary to, appointment of, 782.
 - transfer of powers of Commissioners in Lunacy to, 818.
- Board of Education, may determine whether child should be notified, 752.
 - regulations by, 742.
- Board of Guardians, agreement with local authority as to reception of defectives, 797.
 - approval of premises provided by, 796, 797.
 - definition of (Interpretation Act, 1889), 797.
 - of a Poor Law Union, definition of, 821.
 - transfer of premises of, for use as certified institutions, 801.
- Borough Council, is a local authority, 743.
- borrowing powers of local authority, 792 *seq.*
- breach of regulations, penalty for, 816.
- burial of defectives, local authority, by, 788.
- central authority, 743.
- certificate. *See also* MEDICAL CERTIFICATE.
 - child incapable of receiving benefit at special school, as to, 751, 752.

INDEX.

MENTAL DEFICIENCY—*continued.*

- certificate, that medical examination impracticable, 756.
- certified homes, management of, 741.
 - house, definition of, 821.
 - local authority cannot contribute to expenses of, 809.
 - money provided by Parliament not to be applied to, 809.
 - provisions as to, 809.
 - institution, certificate as to, 796.
 - contracts with manager of, and local authority, 798.
 - definition of, 821.
 - management of, 741.
 - when premises so become, 745.
- certifying officer, certificate by, as to child incapable of receiving benefit at special school, 751, 752.
 - not binding, 752.
- chargeability of defective, 805.
 - appeal as to, 805, 806.
- children guilty of offences, 763 *seq.*
- children, wandering or destitute, 764.
 - when may be sent to industrial school, or reformatory, 763 *seq.*
- class of defective, discretionary power of judicial authority, 759.
- classification and treatment of defectives, regulations as to, 804.
- Commissioners to Board of Control, appointment of, 780.
 - chairman to, appointment of, 780.
 - disqualification of, to hold office, 782.
 - duration of office of, 781.
 - salaries of, 781.
 - visitation by, of institutions, etc., 783.
- committee for care of the mentally defective, appointment of, by Council, 743, 784.
 - duties of, 784, 785.
 - when may act as Asylums Committee, 818.
- computation of time. *See also* COMPUTATION OF TIME, *ante.*
 - as to defective detained in institution, etc., for purposes of Poor Removal Act, 820.
- consent of parent or guardian to order, 759.
 - when may be dispensed with, 739, 759.
- continuation of order for detention, 769.
- contract, local authority and manager of certified institution between, 798.
- contributions by Treasury, 809.
 - limit as to, 809.
 - to local authority for maintenance, 763.
- contribution to maintenance, orders as to, 773.
 - who liable for, 773.
- conveyance of defective to institution or under guardianship, duty of Council, 804, 805.
- convictions, appeals against, 817.
 - by Court, order upon, 739.
- correspondence of defectives, 742.
- County and Borough Fund, provisions as to, 793.
- County Council, is a local authority, 743.
- County or Borough Council, duties of, as to maintenance and conveyance, etc., of defective, 804, 805.
- Court, has powers as if petition had been presented to judicial authority, 762.
 - may find guilty without proceeding to conviction, 762.
 - make order for removal to industrial school, 762.
 - order defective to be placed under guardianship, 763.
 - detention of defective during proceedings to trial, 763.
 - until adjudication upon petition, 763.
 - postpone sentence, 762.

INDEX.

MENTAL DEFICIENCY—*continued.*

- Court, order of, for detention of defectives, 739, 755.
- Criminal Law Amendment Act, extension of principles of, under Mental Deficiency Act, 816.
- Criminal Lunatic Asylum, defective in, procedure as to, 766.
 - removal of defective from, to other care, 766.
- custody of defective, person entitled to, 778.
- defective, abandoned, neglected, or without means of support, powers of dealing with, 748, 749.
 - attaining age of twenty-one, notice to be sent to, and visitors, 771.
 - procedure as to reconsideration of case of, 771.
 - right of reconsideration of case, 769.
- Criminal Lunatic Asylum, in, procedure as to, 766.
 - definition of, 737, 747.
 - detention of, how secured, 748 *seq.*
 - guilty of criminal offence, powers of dealing with, 748, 749.
 - ill-used or neglected, access to, 776.
 - order for reception of, on petition, 755.
 - over twenty-one years of age, power to deal with, 738.
 - power to deal with, 738, 748, 749.
 - reception of, notice of, to Board, 754.
 - removal of, to place of safety, 775.
 - right of, to reconsideration of order for detention, on attaining age of twenty-one, 769.
 - undergoing detention in inebriate reformatory, procedure as to, 766.
 - reformatory, or industrial school, procedure as to, 766.
 - imprisonment, procedure as to, 766.
- when becomes unfit for guardianship, notice to be sent, 761.
 - pregnant and in receipt of relief, powers of dealing with, 749.
- children, education of, provisions as to, 752, 753.
 - incapable of receiving benefit in special school, certificate as to, 751.
 - notices to be sent by Local Education Authority as to, 749.
- definition of approved home, 821.
 - Board of Guardians (Interpretation Act, 1889), 797.
 - of a Poor Law Union, 821.
 - certified house, 821.
 - institution, 821.
 - defectives, 747.
 - feeble-minded persons, 747.
 - habitual drunkard (Habitual Drunkards Act), 751.
 - who are included under definition, 751.
 - idiots, 747.
 - imbeciles, 747.
 - industrial school (Children's Act, 1908), 768.
 - institution and institution for defectives, 821.
 - for lunatics, 821.
 - intoxicants, 820.
 - moral imbeciles, 748.
 - parent or guardian, 820.
 - place of safety, 820.
 - Poor Law Union (Interpretation Act, 1889), 798.
 - prescribed, 820.
 - reformatory (Children's Act, 1908), 769.
 - relative, 820.
 - special school or class, 821.
- degree of mental defect, assistance in ascertaining, 748.
- detention of defectives after power expired, 811.
 - duration of, when not under order, 740, 771.

INDEX.

MENTAL DEFICIENCY—*continued.*

- detention of defectives, how secured, 748 *seq.*
 - in reformatory, industrial school, or inebriate reformatory, procedure as to, 766.
 - under other Acts, not affected, 811.
- discharge, order of, by visitors, 769.
- disfranchisement, provisions against, 820.
- dismissal of petition, 760.
- drunkard (habitual), detention of, how secured, 748, 749.
- Education Authority, duties of, 744, 749.
- epileptic children, education of, provisions as to, 752, 753.
- escape of defective, 745.
 - subsequent apprehension of, 745, 804.
- evidence, Court may act on evidence in proceedings, or call further evidence, 763.
- expenses, enforcement of order for payment of, 772.
 - local authority, of, 744.
 - how defrayed, 792.
 - limit as to, 792.
 - maintenance of, what are, 772, 773.
 - recovery of, under Act, 740, 772.
- false entries, a misdemeanour, 816.
- fee for certificate for, 810.
- feeble-minded persons, definition of, 747.
 - detention of, how secured, 748 *seq.*
 - when may be detained at instance of parent, 750.
- guardian, appointment of new, 761, 762.
 - notice to be sent by, 761.
- consent of, when required, 739, 759.
 - may be disregarded, 759.
- powers of, to deal with defectives, 748, 749, 754.
- removal from office, 761, 762.
 - of defective by, 771.
 - restrictions as to, 771.
- resignation of, 761.
 - when should act, 750.
- Guardians of Union, when may act, 750.
- guardianship, defectives may be placed under, 748.
 - how defectives placed under, 750.
 - when defective becomes unsuitable for, notice to be sent, 761.
- habitual drunkard, definition of (Habitual Drunkards Act), 751.
 - detention of, how secured, 748, 749.
 - who is, 751.
- Idiots Act, hospitals, institutions, or licensed houses, registered under, provisions as to, 818, 819.
 - repeal of, 818.
- idiots, definition of, 747.
 - detention of, how secured, 748, 749.
 - how regarded in law, 748.
 - may be dealt with under Mental Deficiency or Lunacy Acts, 748.
 - detained at instance of parent or guardian, 750.
 - power to deal with, 738, 748, 749.
- ill-treatment, defective, of, 812, 813.
- imbeciles, definition of, 747.
 - detention of, how secured, 748, 749.
 - may be detained at instance of parent or guardian, 750.
 - power to deal with, 738, 748, 749.
- imprisonment, defective undergoing, procedure as to, 766.
- income account, costs on, what shall include, 821.
- indictments for sexual offences, not to be tried at Quarter Sessions, 814.
- industrial school, definition of, 768.
 - removal of defective from, 766.
- inebriate reformatory, provisions of Inebriates Act, 768.
 - removal of defective from, 766

INDEX.

MENTAL DEFICIENCY—*continued.*

- information, as to defectives, how obtainable, 787.
- inspection of institutions, etc., 742.
 - regulations as to, 804.
- institution, definition of, 821.
 - for defectives, what is an, 750.
 - lunatics, definition of, 821.
- interpretation of terms in Acts, 820 *seq.*
- intoxicants, definition of, 820.
 - supply of, to defective, when an offence, 746, 811.
- joint action of local authorities, 785, 798.
 - expenses of, 785.
 - revocation or variation of agreement as to, 786.
 - where disagreement as to any term, 785.
- judicial authority, adjournment of petition by, 761.
 - certificate of, 754.
 - discretion of, as to class of defective, 759.
 - dismissal of petition by, 760.
 - may order medical examination, 760.
 - must see defective before signing order, 755, 756, 759.
 - order of, as to payment of expenses, 772.
 - enforcement of, 772.
 - revocation or alteration of, 772.
 - for, contributions of expenses, 773.
 - detention of defective, 739, 755.
 - powers of, to summon and examine witnesses, 760.
 - privacy of proceedings before, 759.
 - reception orders by, requirements as to, 756.
 - warrant of, to search for and take defective, 776.
 - when may make order without consent of parent or guardian, 759.
 - who is a, 740, 779.
- jury not entitled to return special verdict in case of mere mental deficiency, 763.
- Lancashire Asylums Board shall be local authority for County of Lancaster and Boroughs of Board, 796.
- land, acquisition of, by Board, 796.
 - for purposes of Acts, 745, 798, 799, 800, 801.
- lease of premises for purposes of certified institution, 801.
- letters of defectives, 742.
 - which must be sent, 742.
- liability for maintenance of defective, 773 *seq.*
- licenses, granting of, 741.
- limitation of recoverable expenditure by local authority, 792.
- local authority, agreement with Boards of Guardians for reception of defectives, 797.
 - amalgamation of two or more, 744, 745, 785, 798.
 - ascertainment by, of defectives within area, 787.
 - borrowing powers of, 792 *seq.*
 - burial of defectives by, 788.
 - constitution of committee for the care of the mentally defective, by, 784.
 - contracts by, with manager of certified institution, 798.
 - domiciliary visitations, no power as to, without consent, 787.
 - duty of, 740, 787.
 - under Lunacy Acts unaltered, 789.
 - expenses of, 744.
 - how defrayed, 792.
 - limit as to, 792.
 - joint action with other local authority, 785, 798.

INDEX.

MENTAL DEFICIENCY—*continued.*

- local authority, joint action with other local authority, where disagreements exist, 785, 798.
 - committee appointed by, with other local authority, 785.
 - land, acquisition by, of, 798, 799, 800, 801.
 - obligations of, 763.
 - obligatory and non-obligatory duties of, 788, 789.
 - officer of, removal of defective to place of safety, by, 775.
 - powers (general) of, 787.
 - provision of accommodation and institutions by, 787, 788, 798.
 - reports of, to Board, 788.
 - requirements of institutions provided by, 797.
 - who is a, 743, 784.
- local education authority, ascertainment by, of defective children within area, 790.
 - duty of, 790.
 - under other Acts unaltered, 789.
 - notices to be sent by, as to mentally defective children, 749, 790.
 - notification by, of address of child incapable of receiving benefit at special school, 752, 753.
- Local Government Board, approval by, of agreements between Boards of Guardians and local authorities, 797.
 - premises provided by Boards of Guardians, 797.
 - joint action of local authorities for, concurrence of, 785.
 - provisional orders by, 786.
- Lord Chancellor, power of, to make rules, 806.
- maintenance, defectives of, contribution by Parliament for, 746.
 - to, who liable for, 773.
 - duty of Council, 804, 805.
 - expenses of, orders as to, 772.
 - what are, 772, 773.
- majority, defective attaining his, procedure upon, 771.
 - rights of, 769.
- management of institutions, regulations by Secretary of State as to, 802 *seq.*
- medical certificate, continuance of reception order for, 770.
 - who may not sign, 770, 771, 809, 810.
- defective in criminal lunatic asylum, as to, 766.
- defective undergoing detention in reformatory, etc., as to, 766.
 - imprisonment as to, 766.
- facts which must contain, 757.
- idiots, imbeciles, and defectives under twenty-one, for, 738.
- one to be under hand of practitioner approved by Board or by local authority, 754, 756.
 - usual medical attendant, 757.
- persons disqualified from signing, 757, 758.
- to be given on examination separate from other certifying practitioner, 757.
- two to accompany petition for reception order, 738, 756.
- examination of defective impracticable, certificate as to, 756.
 - judicial authority may order, 760.
- practitioner, approved by Board or by local authority, to give one certificate, 754, 756.
- statement, to accompany notice of admission of defective, 755.

INDEX.

MENTAL DEFICIENCY—*continued.*

- Mental Deficiency Act, 1913.. 737—822.
 - date of operation of, 822.
 - extent of, 822.
- moral imbeciles, definition of, 748.
 - detention of, how secured, 748, 749.
- imbecile, when may be detained at instance of parent, 750.
- notice of reception of defective to be sent to Board, 754.
 - medical statement to accompany, 755.
- notification as to defective child, by local education authority, 751.
- obstruction to officials, 812.
- offences, etc., 746.
 - punishment for, 816.
- one defective only to be taken charge of without consent of Board, 746, 811.
- order for detention, authority and effect of, 768, 769.
 - consideration of, on defective attaining age of twenty-one, 769.
 - continuation of, 739, 769.
 - duration of, 739, 768, 769.
 - computation of time as to, 770.
- parent or guardian, definition of, 820.
 - consent of, when may be disregarded, 759.
 - required, 739, 759.
 - powers of, to deal with defectives, 748, 749, 754.
 - removal of defective by, 771.
 - restrictions as to, 771.
 - when father and mother living, father should act, 750.
 - under disability, who to act, 750.
- petition, adjournment of, 760.
 - directions by Board for petition to be presented, 756, 757.
 - dismissal of, 760.
 - documents to accompany, 758.
 - for order for detention of defective, procedure upon, 738, 739, 741.
 - presentation of, 756.
- petitioner must be twenty-one years of age, 757.
 - have seen defective within fourteen days of presentation, 757.
 - statutory declaration by, 756.
 - when not a relative of defective, 756.
- place of detention, 766.
 - duties of police authority to be exercised by County and Borough Councils, etc., 767.
 - fitness of, 766.
 - provision of, 766.
 - register of places of, to be kept by police, 767.
 - responsibilities of occupier of, 767.
- place of safety, definition of, 820.
 - removal of defective to, 775.
- plans, approval of, by Secretary of State, 798.
- police authority, duties of, as to place of detention, by whom to be performed, 767.
 - evidence of, as to defective, 763.
 - notice of, 763.
- Poor Law Union, definition of (Interpretation Act, 1889), 798.
- prescribed, definition of, 820.
- prison commissioners, transfer of premises of, for use as certified institution, 801.
- privacy of proceedings before judicial authority, 759.
- property of defective, administration of, 817.
- protection of persons putting Act into force, 817.
- provisional orders, Local Government Board, by, 786.
- punishment for offences, 816.

INDEX.

MENTAL DEFICIENCY—*continued*.

- recapture of defective, 745, 804.
- reception of defective, notice as to, to Board, 754.
 - medical statement to accompany, 755.
- order. *See also* ORDER.
- orders, requirements as to, 756.
- reformatory, definition of, 767.
 - removal of defective from, 766.
- regulations, Board of Education, by, 742.
 - breach of, penalty for, 816.
 - Home Secretary, by, with concurrence of Local Government Board, 742.
 - Lord Chancellor, 742.
- Secretary of State may make, 779, 802.
 - to be laid before Parliament, 820.
- relative, definition of, 820.
- religious persuasion, facilities as to instruction, etc., 778.
 - provisions as to, 740, 777.
- removal of defective, by parent or guardian, 771.
 - restrictions as to, 771.
 - from criminal lunatic asylum, 766.
 - prison, 766.
 - reformatories, 766.
 - to place of safety, 775.
- residence, determination of, 805.
 - appeal as to question of, 805, 806.
- school authority, duties of, as to ascertainment of defectives, 791.
- Seilly Isles, deemed to be a County, 822.
- Secretary of State, action by, in default of local authority, 791, 792.
 - expenses of, 792.
 - enquiry by, as to performance of duty by local authority, 744.
 - joint action of local authorities, acquiescence in, 785, 798.
 - order of, for detention of defectives, 739, 755.
 - powers of, as to removal of defective, 766.
- secrection of defective, when an offence, 812.
- sexual immorality, protection of defective from acts of, 813 *seq.*
 - offences, 813 *seq.*
 - indictments for, not to be tried at Quarter Sessions, 814.
- single care of defective, notice of reception to be sent to Board, 811.
 - one only to be taken without consent of Board, 811.
- special report and certificate for continuation of reception order, 769, 770.
- schools or classes, 752, 753.
 - definition of, 821.
- verdict, jury not entitled to return, in case of mere mental deficiency, 763.
- State institutions, 744.
 - definition of, 821.
 - managers of, are the Board of Control, 796.
 - provision of, 796.
- statutory declaration by petitioner, 756.
- superannuation—Asylums Officers Superannuation Act to apply with modifications, 746, 807.
 - scheme for payment of, by managers of certified institutions, certified houses, or approved homes, 808.
- transfer of defective from guardianship to institution, 760, 761.
 - defectives from institutions for lunatics, 776.
 - to institutions for lunatics, 776.
- existing premises for use as institutions, 801.

INDEX.

MENTAL DEFICIENCY—*continued.*

- treasury, contributions by, for expenses of defectives in certified institutions or under guardianship, 808.
 - limit as to, 808.
 - to society, 808, 809.
- twenty-one, defective attaining age of, procedure upon, 771.
 - defective attaining age of, rights of, 769.
- untrue statements, a misdemeanour, 816.
- visitation, approved homes, of, Commissioners to Board, by, 783.
 - certified houses, of, Commissioners to Board, by, 783.
 - institutions, of, Commissioners to Board, by, 783.
 - defectives, of, relation or guardian, by, 778.
 - restrictions on, 778.
 - under guardianship, Commissioners to Board, by, 783.
- visiting committee of asylum, when may act as visiting committee for the care of the mentally defective, 818.
 - for the care of the mentally defective, disqualifications to act on, 785.
- visitors of institutions, duties of, 802.
 - expenses of, 802.
 - the same as under Lunacy Acts, with additions, 745, 801.
 - order of discharge by, on reconsideration of case by, on defective attaining age of twenty-one, 769, 770.
- warrant of judicial authority to search for and take defective, 776.
- witnesses, summoning and examination of, by judicial authority, 760.
- workhouse, reception of defective, into, 776.
 - expenses of, 776.

MENTAL INFIRMITY ARISING FROM DISEASE OR AGE. *See also*

INCAPACITY NOT AMOUNTING TO LUNACY.

- application of Act as to person suffering from, 261.

METROPOLITAN POOR ACT, 1867,

- asylums under, 454.
 - officer of, to undertake duties of relieving officer, 104, 185, 186.

MISCONSTRUCTION OF ACT,

- not necessarily an offence, 438.

MISDEMEANOUR,

- abuse of female lunatic, 434, 435.
- detaining alleged lunatic except under provisions of the Acts, 59.
- detention of lunatic in part of building not shown to Commissioners, 353.
- failure to give notice of removal, discharge, or death, or make prescribed entries, 430, 431.
 - right of interview with judicial authority, 164.
- notify of entry of doubtful patient, 329.
- false answer to visitor in lunacy, 328.
- ill-treatment of patient, 432, 708.
- obstruction to visitors in lunacy, 431.
- where no special punishment provided, 161.

MIS-STATEMENTS,

- when wilful, a misdemeanour, 430.

MONTH,

- means calendar month in Rules in Lunacy, 637.
- when means lunar month, 636.

MONTHLY REPORT,

- not required in case of lunatic so found, 475.
- private patient, as to, form of, 548.
 - one month after admission of, to be sent, 62, 200.

INDEX.

- MORTGAGE,
definition of, 451.
lunatic's property, of, 266, 269.
order to raise money by, 656.
- NATURAL CHILDREN,
attendance of, in proceedings in lunatic's estate, before Master, 643.
- NECESSARIES,
liability of lunatic's estate for, 268.:
- NEXT-OF-KIN,
attendance of, 642, 643.
natural children may be allowed, 643.
definition of, 451.
enquiries as to, by Masters, 640, 642.
when infant, power to appoint guardian, 643.:
- NON-COMPLIANCE WITH ACT AND RULES,
penalty for, 431.
- NON-CONTRIBUTORY BOROUGHES,
provisions as to repayment by, to guardians of portion of sums expended by
them for maintenance of pauper lunatics, in certain cases, 112, 113.
- NOTICE OF ADMISSION,
omission to send, a misdemeanour, 430.
- NOTICE OF DEATH,
omission to send, a misdemeanour, 431.
- NOTICE OF DESIRE FOR PERSONAL INTERVIEW WITH JUDICIAL
AUTHORITY,
form of, 460, 564.
- NOTICE OF RIGHT TO PERSONAL INTERVIEW WITH JUDICIAL
AUTHORITY,
form of, 460.
- OATH,
administration of, by Commissioners or visitors, 440.
Masters, 259.
- OBSTRUCTION TO COMMISSIONER OR VISITOR,
penalty for, 431.
- OFFENCES,
proceedings by whom taken, 435.
by order of Commissioners or visitors, or con-
sent of Attorney or Solicitor-General, 435.
- OFFICE,
tenure of, Commissioners in Lunacy, 3.
to the Board of Control, 3.
- OFFICE COPY,
solicitor who has taken, must produce at proceedings if required, 661. :
default of,
661.
- OFFICE COPIES OF ORDERS, ETC.,
admissible as evidence, 18, 297.
- OFFICERS OF ASYLUMS. *See also* ASYLUM.
appointment of, 23, 24, 25, 384, 385.

INDEX.

- OFFICIAL SOLICITOR,
costs of, whence payable, 668.
may be appointed to act by Masters, 667.
petition may be presented by, 667.
- OMISSION,
to send notices or make prescribed entries, a misdemeanour, 430, 431.
- ONEROUS PROPERTY OF LUNATIC,
surrender, etc., of, 274.
- ORDER,
appointing committee, to take effect on security being approved, 655.
lunatic, detention of, in workhouse, form of, 462.
- ORDER IN COUNCIL, 9th MARCH, 1914. .5, 301, 302.
- ORDERS,
for sale of lunatic's estate, 657.
Masters of, to be authenticated by seal, 668.
to take effect till further order, 655.
- OUT-COUNTY PATIENTS,
contract for reception of, 25, 26.
extra charges for, 27.
how applied, 27.
- OVERSEER,
apprehension of wandering lunatic by, 173.
conveyance of lunatic to institution by, 472.
information of, as to lunatic not under care and control, 170.
- PARLIAMENT,
copies of reports to be laid before, 4.
rules to be laid before, 4.
vacating of seat in. *See* LUNACY (VACATING OF SEATS) ACT, APPENDIX I.
- PARTITION,
lunatic's property, of, 272.
orders as to, 147, 272.
where lunatic limited owner, 272.
- PARTNERSHIP,
lunacy of partner, orders as to, 147, 270.
- PAST MAINTENANCE, 640.
- PATIENT IN SINGLE CARE. *See* SINGLE PATIENT.
- PATIENTS' BOOK,
copies of entries in, to be sent to Board, 534.
visitors, 534.
to be kept in every institution for lunatics receiving private patients, 556.
- PAUPER,
definition of, 452.
- PAUPER PATIENT. *See also* ADMISSION.
admission of, form of notice of, 546.
boarding out of, 70, 219.
maintenance allowance, 70, 219.
half-yearly return of, form of, 552, 553.
to be sent of pauper patients, 537.
statement as to pauper patients, 537.
liability of relatives to support, not affected by Act, 409.
property of, power of guardians to seize, 415.

INDEX.

PAUPER PATIENT—*continued.*

- quarterly return as to, district medical officer, by, 537.
form of, 554.
- relative or friend may take charge of, 182, 219.
- weekly charges for, 26, 27, 390.
application of surplus, 391.
- when entitled to be classified as a private patient, 176, 177, 473
to be classified as, 473.

PAYMASTER-GENERAL,

- definition of, 452.

PAYMENTS,

- orders for, of repairs of asylums, 22.
- schedule of, to be kept for private patients and boarders, 533.

PAYMENTS FROM PUBLIC DEPARTMENTS,

- certificate of disability of person entitled to, by justice of peace or vicar,
form of, 466.
medical practitioner, form
of, 466.

PAYMENT OF EXPENSES,

- local authority, by, to treasurer of asylum, 23.
- pauper lunatic, burial of, 124.
discharge of, 124.
removal of, 124.
- of, appeal against refusal of justices' order, for, 126.
appropriation of property of, by guardians, 126.
order as to, by justices, 114.
to guardians, by Friendly or Benefit Society, 125.
out of lunatic's estate, 125.

PAYMENT OF LUNATIC'S DEBTS, ETC., 266, 267.

PEDIGREE,

- strict proof of, may be dispensed with, 642.

PENALTIES,

- recovery of, 436.

PENSION. *See also* ASYLUMS OFFICERS' SUPERANNUATION ACT, APPENDIX I.

- lunatic of, payable by Public Department, 442, 443.

PERCENTAGE ACCOUNT,

- dividends may be carried to, 659.
- to be kept in Paymaster-General's office, 659.
- transfer from, to cash account, 659.

PERCENTAGES AND FEES. *See also* STAMPS.

- payable, 151, 298, 487, 657—660.
- Treasury Order as to, 11th August, 1892.. 671, 672.
- when not payable, 151, 299, 488.

PERMANENT IMPROVEMENTS,

- lunatic's property, orders as to, 147.

PERSONAL INTERVIEW BY PATIENT AFTER ADMISSION, WITH JUDICIAL AUTHORITY, 38, 39.

PERSONAL INTERVIEW BY PATIENT WITH JUDICIAL AUTHORITY, PREJUDICIAL, 38, 39.

PETITION. *See also* MENTAL DEFICIENCY, PETITION.

- reception order for, adjournment of consideration, 37, 160.
by whom to be presented, 157.
computation of time respecting, 157.

INDEX.

PETITION—*continued.*

- reception order for, consideration of, by judicial authority, 35, 36, 37, 158.
 - time allowed for, 36, 158, 160.
- date of presentation of, 485.
- dismissal of, 35, 37, 160.
- form of, 456.
- minor may not sign, 33, 157.
- persons disqualified from signing, 32, 33, 156.
- person signing must have seen alleged lunatic within fourteen days of presentation of, 157.
- previous dismissal of, to be referred to in subsequent petitions, 161.
- privacy of hearing, 36, 37, 159, 160.
- relative to sign if possible, 32, 157.
- requirements of, 32, 33, 34, 156, 157, 158, 160.
- statement of particulars to accompany, 33, 156.
- transfer of, from one judicial authority to another, 35.
- undertaking by person signing to visit alleged lunatic, 158.

PETITIONER,

- substitution of, 39, 209, 210.

PLAN,

- licensed house, of, to be hung in conspicuous part of house, 9, 345.

PLANS,

- for purchase of lands and erection of asylum to be approved by local authority, 367.
 - to be approved by Secretary of State, 367, 380.

POLICE OFFICER. *See* CONSTABLE.

POLICE PENSIONS,

- how payable, 443.

POSSESSED,

- definition of, 488.

POST,

- documents sent by, when deemed to be served, 159.

POST-MORTEM BOOK,

- entries in, copies of, to be supplied to Board on request, 531, 532.
- to be kept in every institution for lunatics, 556.

POST-MORTEM EXAMINATIONS, 236, 237.

POST-MORTEM NOTES,

- headings as to, 546.

POST OFFICE SAVINGS BANK,

- annuities and insurances, 443.

POWER VESTED IN LUNATIC,

- exercise of, orders as to, 147, 280, 281.

PREJUDICIAL,

- personal interview by patient, with judicial authority, when, 38, 162.
 - form of certificate as to, 460.

PRESCRIBED,

- definition of, 452.

INDEX.

- PRISON,**
definition of (Colonial Prisoners Removal Act), 718.
(Criminal Lunatics Act, 1884), 733.
- PRISONER.** *See generally,* CRIMINAL LUNATIC.
- PRIVATE FAMILY,**
lunatic in, 100.
order of discharge or removal of, by Lord Chancellor, 101.
- PRIVATE PATIENT.** *See also* ADMISSION.
admission of, form of notice of, 547.
asylum, in, profits arising from, how applied, 20, 26, 380.
County Asylum, in, accounts respecting, 26, 380.
admission of, into, 26, 379.
definition of, 452.
half-yearly lists of private patients in asylum, form of, 553.
to be sent to Board of Control and local authorities, 537.
monthly report as to, form of, 548.
right of, to have personal interview with visiting commissioner or visitor, 66, 206.
notice of, to be posted up in institutions, 66, 206.
- PRIVATE PATIENT IN INSTITUTION,**
who becomes destitute, chargeability of, 72, 485.
removal of, how accomplished, 72, 483.
payment of expenses of removal and order, 73, 74, 483.
- PROCEDURE,**
licenses, on granting of, 4.
- PROCEEDING,**
stay of, on summary application, 439.
- PROFIT,**
private patients in County Asylums, how applied, 20, 26.
- PROPERTY,**
definition of, 452.
lunatic, of, dealings of, by patient not to be allowed, 212.
enquiries by master as to past dealings of, 641.
under £200, powers of County Court Judge as to, 149.
when out of jurisdiction, 642.
under control of Court cannot be seized, 641.
- PROSECUTION,**
Attorney-General may direct, 430.
director of public prosecutions may direct, 430.
Secretary of State may direct, 437.
- PROTECTION,**
persons putting Act into force, to, 437.
- PROTECTOR OF SETTLEMENT,**
where lunatic is, 282.
- PROVISIONAL CERTIFICATE,**
registration of hospital, of, 12.
- PUBLIC DEPARTMENT,**
application of pension of lunatic by, 442, 443.
definition of, 452.
- QUARTER SESSIONS,**
definition of, 452.
judicial authorities to be appointed at, 165.

INDEX.

QUARTER SESSIONS BOROUGH,

definition of, 452.

when ceases to be local authority, 16.

QUARTERLY RETURN OF PAUPER LUNATICS,

District Medical Officer, by, 537.

form of, 554.

QUORUM,

Board of Control, numbers to form a, 4.

RATING OF ASYLUMS, 23, 373.

RECAPTURE OF CRIMINAL LUNATIC, 684, 685, 707, 731, 732.

RECAPTURE OF LUNATIC, 67, 68, 237—240. *See also* MENTAL DEFICIENCY, RECAPTURE OF DEFECTIVE.

form of notice of, 550.

notice of, to be sent to Board of Control, 68, 534.

Chancery Visitors, 68.

visitors of licensed house, 68.

Scotland or Ireland, from, 67, 68, 239.

time allowed for, 67, 68, 237, 239, 240.

RECEIPT OF RELIEF,

when lunatic may be deemed to be in, 177.

RECEIVER APPOINTED FOR SOME SPECIFIED PURPOSE,

appointment and discharge of, by Master, 144, 650.

RECEIVER APPOINTED UNDER SECTION 116..487.

agent of lunatic, is, 272, 273.

application for, to be by summons, 147, 639.

appointment of, evidence in support of, 147.

appointment of, enquiries to be made as to lunatic's property, etc., 640.

change of lunatic's address should be notified by, to Chancery Visitors,
where possible, 669.

discharge of, 152.

exercise of powers by, power vested in lunatic as trustee or guardian, of, 148.

half-yearly reports of, 148.

jurisdiction of Master, 487.

may carry on business of lunatic, 272.

not discharged upon lapse of reception order, 152, 261.

operation of Lunacy Act, 1908..146, 490.

passing of accounts of, on death of lunatic, 153.

powers of, enlargement of, to those of Committee of Estate, 128, 146, 490.

relatives preferred to strangers, but no absolute right, 253.

Rules in Lunacy apply to, 146, 651.

should now almost invariably be appointed in place of inquisition held,
128, 145.

undertaking of, 148, 668.

form of, 668.

RECEPTION ORDER. *See also* MENTAL DEFICIENCY ; ORDER ; SUMMARY

RECEPTION ORDER.

admission of patient on, after suspension of, 196.

amendment of, and of papers accompanying, 56.

authority to act under, 37, 38, 195.

Chairman of Board of Guardians, of, when may make, 486.

Commissioner, by, in case of pauper lunatic, 55.

definition of, 28, 453.

delivery of, with documents accompanying, 195, 196.

direction of, name of asylum or institution to be upon, 175, 176.

duration of, 57, 58, 197, 475.

how kept in force, 57, 58, 197, 198.

INDEX.

RECEPTION ORDER—*continued*.

- lunatic not under proper care and control, or cruelly treated or neglected, form of, 464.
- so found, for, 140, 169, 170.
- made before commencement of Act, 443, 444.
 - powers and duties of person signing, 444.
- pauper lunatic, or lunatic wandering at large, form of, 462.
- petition, on, form of, 458.
 - judicial authority to sign, 32, 156.
 - lunatic to be received before expiration of seven clear days of, 38, 196.
 - medical certificates to accompany, 32, 156.
 - private application, by, 156.
 - procedure upon, 158.
 - judicial nature of, 159.
 - requirements of, 32, 156, 157, 158, 189—197.
 - use of by magistrate in some cases where lunatic accused of crime, 157.
- remains in force if authorizing lunatic to be detained as pauper, and he afterwards becomes a private patient, and *vice versa*, 56, 196.
 - upon removal from one place to another, 57, 197.
- when cannot be made, 36.
 - signed by justice not specially appointed, subsequent approval of, 485.

RECORDER,

- consent of, to appointments of visitors of licensed houses by Borough Justices, 10.

RECOVERY,

- pauper patient, of, discharge on, 234.
 - notice of, to be sent to guardians, or clerk to county council or borough, by manager of hospital or licensed house, 79, 234.
- private patient, of, discharge on, 234.
 - notice of, to be sent to petitioner or other person by manager of hospital or licensed house, 79, 234.

RECOVERY OF EXPENSES,

- from pauper lunatic's estate, from Friendly Society, etc., 414—415.
 - generally as to, 414 *seq*.
- pauper lunatic of, justice's order for seizure of property, 124, 411.

REGISTER CIVIL,

- to be kept, 556.
- form of, 558.

REGISTER OF DEATHS,

- form of, 561.

REGISTER OF DISCHARGES AND TRANSFERS,

- form of, 560.

REGISTER OF MECHANICAL RESTRAINT,

- to be kept, 556.
- form of, 545.

REGISTER, MEDICAL,

- to be kept, 556.
- form of, 559.

REGISTER OF VOLUNTARY BOARDERS,

- to be kept, 556.
- form of, 545.

INDEX.

REGISTRATION OF DEATH OF LUNATIC, 536.

REGULATION MADE BY COMMISSIONERS IN LUNACY AS TO MECHANICAL RESTRAINT, 564—567.

REGULATIONS,
asylums, for the government, of, 383.
hospitals, for the government of, 351.
licensed houses, for the government of, 9.

RELATION,
visit of, order of admission to patient given by commissioner or visitor,
208, 209.

RELATIVE,
definition of, 453.

RELATIVES,
liability of, to maintain lunatic, 113.

RELEASE OF HEREDITAMENTS FROM CONTINGENT RIGHTS IN LUNATIC, 290.

RELIEF,
given to wife or child considered as given to husband, 406.

RELIEVING OFFICER,
duty of, lunatic not under proper care and control, or cruelly treated or neglected, 40, 170, 172.
wandering at large, to apprehend, 47, 173.
on receiving notice of visitors of asylum of intention to discharge, 78.
pauper lunatic within his district, on knowledge of, 43, 172, 173.
removal of lunatic to workhouse in urgent cases, as to, 179.
summary reception order when signed, 43, 46, 55, 172, 174.
to remove lunatic, on order of Commissioners, 182.
may depute others for his duty, 472.

REMOVAL. *See also* MENTAL DEFICIENCY, REMOVAL, TRANSFER.
patient of, entries to be made and notices sent, 74, 533, 534, 557.
form of notice of, 548, 549.
pauper of, expenses of, by whom payable, 73.
from institution to workhouse, order of, authority liable for maintenance, by, 72, 222.
one institution to another, copies of reception order and certificates to be supplied, on, 73, 226.
order of, Commissioner, by, 71, 220.
visitors of an asylum, by, 72, 73, 223.
medical officer's certificate required, before removal effected, 73, 225.
private patient, of, from one institution to another, or from institution to private care, or *vice versâ*, copies of reception order and certificates to be supplied, on, 71, 226.
medical officer's report required for, 71.
order of, Commissioner, by, 71, 220.
petitioner, or other persons by, with consent of Commissioner, 71, 220.
private patient, of, who has become destitute, 72.
single patient, of, to other care, 95, 220, 533.

REMOVAL ORDERS,
authority of, 226.
to be in duplicate, 73, 226.

INDEX.

- RENT-CHARGE, -
redemption of tithe rent-charge, 372.
- REPAIRS,
district asylum, of, expenses, how apportioned, 22.
- REPAIRS (SMALL),
visiting committee may order, 22.
- REPORT, ANNUAL, OF VISITORS OF ASYLUM, 82.
copy of, to be sent to Board of Control, 82.
- REPORTS. *See also* MEDICAL REPORTS.
Board of Control, of, copies of, to be laid before Parliament, 4.
Lord Chancellor, to, every six months, 4.
yearly, 4.
visiting committee of borough, of, to be recorded, 83.
- REPORTS OF COMMISSIONERS.
copies to be sent to office of Board, 82.
- RESCUE,
criminal lunatic, of, penalty for, 707.
- RESIDENCE,
pauper chargeable to union while in institution for lunatics, deemed
resident in union to which chargeable, 395.
- RESTRAINT. *See* MECHANICAL RESTRAINT.
justification of, at common law, 438.
- REVOCATION,
licenses of, 9.
- RIGHT OF PERSONAL INTERVIEW BY PATIENT WITH JUDICIAL
AUTHORITY, 38, 39, 162.
form of notice of, 460.
when prejudicial, 162.
form of certificate, 460.
- RULE OF THE SUPREME COURT,
February 2nd, 1912..671.
- RULES,
construction of, 445.
Lord Chancellor may make, 446.
new, to be laid before Parliament, 4, 446.
operation of, at what period, 5, 446.
power to make, Board of Control, by, 4, 445.
- RULES AND REGULATIONS,
asylum for government of, 23, 383.
- RULES IN LUNACY,
February 6th, 1892..636—667.
June 15th, 1893..667—669.
October 29th, 1900..670.
- RULES MADE BY THE COMMISSIONERS IN LUNACY,
June 26th, 1895..526—555.
October 31st, 1906..556—562.
December 4th, 1912..562—563.
March 12th, 1913..564.
- RULES MADE BY THE LORD CHANCELLOR,
March 29th, 1890..568.
- RULES MADE BY THE SECRETARY OF STATE,
March 31st, 1890..569.

INDEX.

- SAILORS,
lunacy of, 182.
- SALARIES,
asylum officers and servants, how fixed, 25.
- SALE,
lunatic's estate, of, orders for, 657.
property, of, 147, 266, 268, 270, 271.
Lands Clauses Acts, under, 272.
- SAVINGS BANK ANNUITIES,
payment of, 443.
- SCILLY ISLANDS,
contract for reception of pauper lunatics of, 361.
- SCOTCH PROPERTY,
powers as to, 283.
- SCOTLAND,
extension of Acts to, in administration of small estates, 145.
lunatic's property in, administrative powers as to, 283.
- SEARCH FOR PATIENT,
application for, to Commissioners or visitors, 80, 81, 212.
- SECLUSION,
cases of, to be recorded, 531.
- SECRETARY OF STATE. *See also* CRIMINAL LUNATIC; MENTAL DEFICIENCY, SECRETARY OF STATE.
approval of, agreement to unite, for, 16.
contract of county borough with visiting committee for reception of paupers, for, 16.
for reception of out-county patients, for, 26.
paupers into licensed houses, 10.
for, purchase of lands by visiting committee, 19.
definition of, (Colonial Prisoners Removal Act), 718.
(Criminal Lunatics Act, 1884), 733.
warrant of, under Criminal Lunatics Act, 1884, may be under hand of Under-Secretary of State, 733.
- SECURITY,
approval by masters of, 647.
- SEISED,
definition of, 488.
- SENTENCE OF IMPRISONMENT,
definition of, (Colonial Prisoners Removal Act), 718.
- SERVANT,
dismissal of, notice to be sent to Board, 9.
- SERVICE,
by post, 179.
- SETTLEMENT,
adjudication of, as to pauper lunatic, 114, 116, 398.
abandonment of order, 120, 423, 424.
notice of, 120, 121, 424.
payment of costs, 121, 424.
appeal against order to quarter sessions, 119, 418.
amendments, 122, 422.
application for adjournment of hearing, 121.
classification of grounds for, 120.
costs, 123, 422, 423.

INDEX.

SETTLEMENT—*continued*.

- adjudication of, appeal against—*continued*.
 - costs, form part of judgment, 123.
 - course of proceedings on hearing, 122, 123.
 - finality of decision, 423.
 - grounds of, to be delivered, 119, 418, 421.
 - what objections to, not competent, 121, 122, 420, 421.
 - notice of, to be given, 119, 420.
 - proof of service of documents, 121.
 - when adjudication cannot be quashed, 123.
- county or borough obtaining order to send copy of order to guardians liable, 118.
- depositions to be kept, 119, 420.
 - omissions or delay in forwarding copies of, no ground for appeal, 120, 420.
- form of order, 399.
- guardians obtaining order to send copy of order and statement to guardians liable, 115.
- objections that cannot be taken to order, 115, 420.
- orders for expenses, 115, 116, 398, 402.
 - how enforced, 115, 425.
 - when may be paid without such order, 116.
- orders may be made *ex parte*, 398.
- to local authority, 116, 402.
- inquiry into, 397.
 - when may be held, 398.
- pauper chargeable to union while in institution for lunatics, deemed resident in union to which chargeable, 395.
 - lunatic, of, access to lunatic, 114.
 - constructive residence, 114.
 - enquiries, as to, by justices, 114, 116.
 - order as to, by justices, 114.
- when cannot be ascertained, 400.

SHARES,

- lunatic, of, payment as to, 287.
- when held to be "stock," 453.

SINGLE PATIENT,

- admission of, notice of admission of, 89.
- carnal abuse of female, 93.
- change of residence of, notice of, to whom to be sent, 94, 95.
- circular letter of Commissioners as to, 578—586.
- Commissioners may direct special visit to, 99.
- copies of reception order, etc., to be delivered on removal of, 95.
- death of, notices and entries, as to, 97, 98, 535.
 - person having charge of, 95, 221.
- definition, as to, 156.
- discharge of, 96, 227, 228.
- discharge of, Commissioners, by order of, 91, 96, 97.
 - service of notice of, 92.
 - notice to be sent on, 534.
 - restrictions on, 96.
- escape and recapture of, 94. *See also* ESCAPE AND RECAPTURE.
 - notices to be sent on, 534.
- ill-treatment of, 93.
- leave of absence of, on trial, 94.
 - under proper control for change of surroundings, 94, 95.
- letters of, to whom must be sent, 93.
- mechanical restraint, 92, 532. *See also* MECHANICAL RESTRAINT.
- medical attendant of, 90, 207, 208.
 - annual medical report by, 92, 532.
 - Commissioners may direct how often to be visited by, 90, 207, 532.
 - order change of, 90, 207.

INDEX.

SINGLE PATIENT—*continued.*

- medical attendant of, disqualification for, 90, 207.
- medical journal to be kept, 556.
 - entries to be made in, 90, 91, 532.
- medical statement, form of, 547.
 - to be sent before the end of seven clear days, 89, 529.
- monthly report, form of, 548.
 - to be sent by medical attendant, 91, 200.
- order for examination of, by medical practitioners, how obtained, 96.
- orders for removal of, to be in duplicate, 95, 226.
- power to take more than one, on consent of Board, 89, 208.
- recovery of, discharge of, 97, 234.
 - notices to be sent of, 97, 234.
- register of mechanical restraint to be kept, 92, 556.
- removal of, to other care, 95, 220, 221.
 - notices of, to be sent, 95, 535.
- search for, application to Board of Control for, 98.
- special medical report concerning, by order of Commissioners, 92.
- visitation of, Commissioners or visitors, by, 91, 98, 99, 201, 329, 330.
 - production of medical journal, etc., at, 98, 99.
 - report after visit, 91.
- visits of friends to, by order of Commissioners, 93.

SMALL ESTATE,

- administration of, by County Court Judge, 284.

SOLDIERS,

- lunacy of, 182.

SOLICITOR, GENERAL,

- consent of, to proceedings, 435.

SOLICITORS. *See also* Costs.

- Master may nominate solicitor or solicitors to act, 643.

SPECIAL REPORT AND CERTIFICATE,

- form of, 551, 552.
 - for patient admitted three months or more prior to May 1st, 1890, 550, 551.
- to keep reception order in force, 57, 197, 198, 475.
- when evidence of insanity does not justify detention, 58, 199.
 - to be sent, 57, 197, 198.

SPECIAL VISITATION,

- Chancery visitors by, on Master's order, 129.
- lunatic, of, by person or order of Commissioners, 88.

SPECIALLY APPOINTED JUSTICES OF THE PEACE. *See also* JUSTICE OF THE PEACE SPECIALLY APPOINTED; JUDICIAL AUTHORITY.

STAMPS,

- cancellation of, 659.
- impressed stamps to be used unless Master otherwise approves, 659.
- percentage to be paid by means of, 660, 672.

STATEMENT OF PARTICULARS,

- accompanying order for detention of lunatic in workhouse, 462.
 - reception of lunatic not under proper care and control, or cruelly treated or neglected, form of, 465.
 - pauper lunatic, or lunatic wandering at large, form of, 463.
- petition for reception order, 33, 156, 158.
 - form of, 467.
- urgency order, 31.
 - form of, 457.

INDEX.

STATUTE OF LIMITATIONS,

payments by receiver for part maintenance, take case out of operation of, 413.

STAY OF PROCEEDINGS ON SUMMARY APPLICATION, 439.

STOCK,

definition of, 453.

foreign curator of property of lunatic out of jurisdiction not entitled to transfer of English stock, 642.

Master may direct transfer of, into court, 643.

proper officer to transfer, 656.

standing in name of deceased person, where personal representative becomes insane, 293.

lunatic, dividends, how payable, 286, 287.

jointly with another, transfer of, 292, 293.

who is outside the jurisdiction, transfer of, 287, 288.

SUBSTITUTION,

petitioner for reception order, of, 209.

SUMMARY RECEPTION ORDER. *See also* RECEPTION ORDER.

authority of, 43, 46, 195.

definition of, 39, 40.

direction of, name of asylum or institution to be upon, 175, 176.

institution into which pauper may be sent upon, 187, 188.

lunatic not under proper care and control, or cruelly treated or neglected, for, 171.

to be received before expiration of seven clear days of, unless order suspended, 46, 47, 48.

wandering at large, for, 174.

suspension of, 43, 53, 179.

removal under, on medical practitioner's certificate, 53, 54, 179.

to be directed to asylum of borough from which lunatic sent, unless reason given, 42, 176.

made within seven clear days of examination of lunatic by medical practitioner, 45.

to whom may be applied, 40.

when may be made, 41, 42.

SUMMONS,

amendment of, 639.

appointment of receiver, for, 147.

before Masters, form of, 667.

consideration of matters in, from time to time, 653.

failure to attend on return of, 652.

for attendance of witness by Commissioners, 440.

form of, 468.

penalty for disobedience, 440.

for attendance of witness by visitors, 440.

form of, 468.

penalty for disobedience, 440.

further time for service of, 652.

how prepared and issued, 652.

issue of, receiver, for, will not prevent creditor from seizing property, 263.

notice of application for, 644, 645.

to be signed by solicitor, 644.

objection to, 645.

only one to be issued on same application, 639.

service and return of, 652.

SUNDAYS, ETC.,

exclusion of, 636, 637.

when included, 637.

INDEX.

- SUPERANNUATION,**
asylum officers, of, 25.
- SUPERINTENDENT.** *See also* MEDICAL SUPERINTENDENT.
asylum, to, how appointed, 24, 384.
definition of, (Criminal Lunatics Act, 1884), 734.
- SUPERSEDEAS,**
inquisition, of, 151, 152, 248.
 application for, by petition, 670.
 as to person but not estate, 152, 248.
 transcript of writ issued in England or Ireland, trans-
 mission of, 152, 249.
petition for, to be filed in Master's office, 638.
- SURRENDER,**
of lease, 273.
- SUSPENSION OF SUMMARY RECEPTION ORDER,** 179.
- TEMPORARY MAINTENANCE,**
lunatic of, provisions for, 279, 282.
- TENANT IN TAIL,**
where lunatic is, of undivided share, 272.
- TIME.** *See* COMPUTATION OF.
power to enlarge or abridge, 637.
- TITHE RENT-CHARGE.** *See* RENT-CHARGE.
- TITLE OF PROCEEDINGS,** 662.
- TRADE OR BUSINESS OF LUNATIC,**
orders as to carrying on of, 147.
- TRANSFER.** *See also* REMOVAL.
criminal lunatic of, 685, 686, 715, 722, 728, 729.
 from or to British possession, 686, 715, 716.
 India, 686, 697 *seq.*
definition of, 453.
from criminal to pauper class, form of notice of, 548.
private to pauper class or *vice versa*, entires to be made as to, 557.
 form of, 550.
- TRANSMISSION OF TRANSCRIPT,**
India, from, 700, 701.
- TRAVERSE,**
inquisition, of, application for, by petition, 133, 670.
 subsequent trial, 134, 247.
 is a matter of right if *bonâ fide*, 638.
petition for, to be filed in Master's office, 638.
verdict, of, to issue tried in High Court, not allowed, 134, 247.
- TREASURER.** *See also* ASYLUM.
asylum, of, audit of accounts of, 25.
 how appointed, 24.
- TREASURY ORDER,**
dated 11th August, 1892, as to percentages and fees, 671, 672.
- TRIAL.** *See* LEAVE OF ABSENCE.
- TRIAL OF LUNATICS ACT, 1883.** 710—713.
- TRUST,**
definition of, 453.

INDEX.

- TRUSTEE,
consent of, to act, form of, 666.
definition of, 453.
lunacy of one, when more than one, 135.
new, appointment of, by committee or receiver, 148, 281, 295.
evidence of consent of, to act, 652.
- TRUSTEE IN BANKRUPTCY,
no jurisdiction in Court in Lunacy to order payment into court from, 641.
- UNDERTAKING,
receiver of, form of, 668.
- UNION. *See also* GUARDIANS.
definition of, 454.
- URGENCY ORDER,
admission of patient on, 30, 167, 168.
copy of order to be sent to Board, 528.
visitors, 528.
- authority to act under, 32, 195.
duration of, 32, 169.
form of, 459.
may be made before or after petition is presented, 169.
medical certificate accompanying, persons disqualified from signing, 31.
requirements of, 31, 32.
- minor may not sign, 30, 169.
not applicable to paupers, 169.
patient to be seen within two days of signature of, 31, 169.
relative to sign when possible, 30, 168.
restrictions as to persons signing, 30.
statement accompanying, in addition to medical certificate, form of, 461.
of particulars to accompany, 169.
when may be signed, 30.
to be used, 32.
- USES,
on exchange of property and on renewal of lease to be to same uses as before,
275.
- VACATING OF SEATS. *See* LUNACY (VACATING OF SEATS) ACT, 1886,
APPENDIX I.
- VENDOR'S LIEN, 641.
- VESTING ORDERS,
application for, by summons, 670.
operation of Lunacy Act, 1911, as to transfer of powers, 150, 289, 492.
power to transfer stock of lunatic, 286.
vest lands, where lunatic possessed by way of trust or mortgage,
289.
right of transfer of stock, standing in name of deceased
person, and personal representative be-
comes insane, 293.
where lunatic joint trustee or mortgagee of
stock, 292.
transfer of stock of lunatic, by order of Judge or Master, 149, 150, 286, 291.
under Trustee Act, 1893, Rule of Supreme Court as to, February 2nd, 1912,
671.
- VISIT OF FRIENDS,
order of admission to patient, given by Commissioner or visitor, 66, 67.

INDEX.

- VISITATION. *See also* CHANCERY VISITORS; FRIENDS; RELATION; MENTAL DEFICIENCY, VISITATION.
- asylums, of, Commissioners, by, 81, 321.
 - enquiries to be made at, 81, 321.
 - visiting committee, by, 82, 322.
 - duties at, 82, 322.
 - Commissioners, by, inspection, for, to be without notice, 84, 324.
 - Lord Chancellor may reduce number of visits, 83, 84, 324.
 - criminal lunatic, asylum, of, Commissioners, by, 685, 708.
 - reports as to, 685, 708.
 - hospitals, of, Commissioners, by, 83, 323.
 - books, and certificates of recent admissions to be produced by manager, 86, 328.
 - to be signed by, 85, 86, 328.
 - copies of reports to be sent to Board, 87.
 - enquiries to be made at, 84, 85, 327.
 - manager's duty on, 86, 328.
 - report of, to be entered in visitors' and patients' books, 85, 327.
 - guardians, by, to paupers, 87, 88, 331.
 - when injurious, 88, 331.:
 - medical practitioner, appointed by guardians, of, to paupers, 87, 88, 331.
 - licensed house, of, Commissioners or visitors, by, books, and certificates of recent admissions to be produced by manager, 86, 328.
 - books to be signed by, 85, 86, 328.
 - enquiries to be made at, 84, 85, 327.
 - manager's duty on, 86, 328.
 - report of, to be entered in visitors' and patients' books, 85, 327.
 - guardians by, to paupers, 87, 88, 331.
 - when injurious, 88, 331.:
 - medical practitioner, appointed by guardians, of, to paupers, 87, 88, 331.
 - (not within immediate jurisdiction of Commissioners), of Commissioners, by, 83, 324.
 - (not within immediate jurisdiction of Commissioners), Commissioners or visitors, by, copies of reports to be sent to Board, 87.
 - (not within immediate jurisdiction of Commissioners), Commissioners or visitors, by, copies to be sent to clerk of such visitors, 87.
 - (not within immediate jurisdiction of Commissioners), copy of minute entered in patients' book by Commissioner as to doubtful patient to be sent to visitors, 87, 329.
 - (not within immediate jurisdiction of Commissioners), visitors by, 84, 325.
 - (within jurisdiction of Commissioners), of, Commissioners, by, 83, 324.
 - (within jurisdiction of Commissioners), of, Commissioners or visitors, by, copies of reports to be sent to Board, 87.
 - lunatics in private families and charitable institutions, of, 334—336.
 - workhouse, of, Commissioners, by, 108, 333.
 - copy of report to be sent to Local Government Board, 107, 108, 333.
 - lunatic, of, Commissioners, by, monthly report, after, 200.

INDEX.

VISITATION—*continued.*

- lunatic, of, visitors by, monthly report, after, 201.
- pauper lunatics, of, boarded out with friends, by District Medical Officer,
 - report as to, 109, 110, 332.
 - Commissioners to Board of Control, by, 182, 321.
 - guardians, by, 83, 331.
 - when injurious to lunatic, 83, 331.
 - medical practitioner appointed by guardians, by, 83, 331.
 - not in institution, District Medical Officer, by, 109, 331, 332.
 - quarterly returns, concerning, 110.
 - received in asylum under contract, 82, 322.
- private patient, of, asylum or hospital, in, Commissioners, by, monthly report, after, 202.
- committee, by, monthly report, after, 202.
- single patient, of, Commissioners or visitors, by, 91, 98, 99, 201, 329.
- special, to institution for lunatics, by order of Commissioners, 88, 333.

VISITING COMMITTEE, definition of, 454.

VISITING COMMITTEE OF ASYLUM,

- accounts to be examined by, 24, 25, 311.
- agreements by, with guardians for the reception of chronic lunatics into workhouse, 105.
- annual report of, 82.
 - copy of, to be sent to Board of Control, 82.
- appointment of, 17, 18, 308.
 - clerk to, 18, 313.
 - sub-committee when necessary, 18, 309.
- cancellation of contracts by, 377.
- committee for the care of the mentally defective, when may act for, 818.
- contract by, for reception of pauper lunatics into licensed house, 10, 378.
 - their asylum, 361, 371, 378.
- disqualifications for, 18, 310, 311.
- how sued, 18, 314.
- land, lease of, may take, 21, 372.
- medical practitioner, assistance of, at visit, 323.
- meetings of, 18, 311, 313.
 - proceedings at, 311—313.
- power of, to fix weekly sum for expenses of pauper lunatics, other than those sent from place to which asylum belongs, 391.
 - make alterations and additions to building for private patients, 368.
 - provide accommodation, 366, 373.
 - receive other pauper lunatics than those for which originally intended, 379.
- purchase of lands, by, 371.
- repairs (small), may order, 22, 374.
- report by, 323.
 - copy of, to be sent to Board of Control, 537.
- rules and regulations to be made by, 23.
- uniform charge for maintenance where more than one asylum, 392.
- vacancies, how filled, 310.
- visitation of. *See* VISITATION.

VISITING COMMITTEE OF PRISON,

- examination by, as to sanity of prisoner, 721.

VISITING PHYSICIAN,

- asylum, to, how appointed, 24.

INDEX.

VISITORS' BOOK,

- copies of entries in, to be sent to Board, 534.
 - visitors, 534.
- to be kept in every institution for lunatics, 556.

VISITORS OF LICENSED HOUSES. *See also* MENTAL DEFICIENCY,

- VISITORS OF LICENSED HOUSES.
- appointment of, 10, 11, 314, 315, 316.
 - notice of, by Clerk to Justices, to Clerk of Peace, 316.
- clerk to, 316.
- clerk to, assistant of, 317.
 - consent of Recorder to appointment, 317.
 - declaration by, 316, 317.
- declaration by, 11, 315.
- disqualification to act, 11, 315.
- expenses of, how payable, 12, 318.
- medical, remuneration to, 316.
- meetings of, 11, 318.
- private patients, visitation of, by, 62, 63, 201.
- vacancies, how filled, 11, 315.
- visitation of. *See* VISITATION.

VOLUNTARY BOARDERS,

- admission of, 9, 346, 484.
 - form of notice, 547.
- case book to be kept for, 531.
- certification of, 10, 484.
- discharge of, on their application, 10, 348.
- form of consent for admission of, 464.
- notice, admission of, 9, 528, 529.
 - death of, 528, 529.
 - discharge of, 528, 529.
- numbers of, to be included in total receivable in registered hospital, 351.
 - under license of house, 9, 348.
- register of, form of, 545.
 - to be kept by superintendent or resident licensee, 532.
 - in every hospital or licensed house which receives boarders, 556.
- removal of, 10.

WANDERING LUNATICS. *See* LUNATICS WANDERING AT LARGE.

WARRANT OF SECRETARY OF STATE UNDER CRIMINAL LUNATICS

- ACT, 1884,
- may be under hand of Under-Secretary of State, 733.

WEEKLY CHARGES FOR PAUPER LUNATICS, 26, 27.

WIDOW,

- irremovability of, 407

WIFE,

- when apart from husband, removability of, as to, 407.

WILL,

- lunatic of, may be deposited in office of Masters, 137, 644.
- opening of, on death of lunatic, 644.

WITNESSES,

- examination on oath by Commissioners without summons, 441.
- expenses of, 441.
- summoning of, by Commissioners or visitors, 440.

INDEX.

WORKHOUSE,

- belonging to union extending into more than one county, and workhouse is in one county and place from which lunatic is sent in another county, reception orders, where to be directed, 52, 53.
 - book to be kept in, 214.
 - chronic lunatics, reception of, into, 105, 187.
 - to be continued as patient on books of asylum from whence removed, 105, 187.
 - definition of, 454.
 - lunatic in, carnal abuse of female, 106.
 - conditions under which may remain, 183, 184, 473.
 - diet and treatment of, 105.
 - discharge of, 109.
 - escape and recapture of, 108. *See also* ESCAPE; RECAPTURE.
 - ill-treatment of, 106.
 - justice's order for, 103.
 - form of, 162.
 - mechanical restraint of, 105, 106. *See also* MECHANICAL RESTRAINT.
 - register of, to be kept, 106.
 - copies of, to be sent to Board of Control, 106.
 - removal of, to asylum, 104, 185, 474.
 - institution by order of Commissioners, 108, 109.
 - appeal against such order by guardians, 109, 222.
 - special visitation of, by order of Commissioners, 108.
 - visitation of, by any person on order of Commissioners, 106, 107.
 - Commissioners, by, 107, 182.
 - duties of Master, on, 108.
 - visitation and returns of, by workhouse medical officer, 107.
 - copies of returns to be sent to Board of Control by clerk to the guardians, 107.
 - when medical officer's certificate or justice's order, not required, 102, 103.
 - who ought to be removed to asylum, 50.
 - duty of medical officer, 50.
 - relieving officer, 50.
- lunatic may be detained in, pending proceedings for reception order, 53.
- removal of, to, from institution when not recovered, 104, 105.
 - what medical certificate required, 77, 78, 104, 105.
 - to remain in, medical officer's certificate for, 102, 103, 183.
 - form of, 461.
- master of, duty to receive lunatic into, 180.
 - obligation to receive alleged lunatic, 40.
- removal of lunatic to, in urgent cases, 179.
 - temporary removal of lunatic to, 43, 44, 54, 180, 181.
 - visiting guardians book to be kept, 105.

WRITS OF EXECUTION, ETC.,

- issued out of Central Office of Supreme Court, 151, 657.

THE END.

List of Forms and Registers

PUBLISHED BY

SHAW & SONS,

Local Government Publishers,

7, 8 & 9, FETTER LANE, FLEET STREET, E.C.

LUNACY ACT, 1890.

Books and Forms required in Asylums.

No.

- 1 & 2 **Petition** for an Order for Reception of a Private Patient, with Statement of Particulars annexed.
- 3 **Order** for Reception of a Private Patient to be made by a Judge of County Courts, Stipendiary Magistrate, or Justice appointed under the Lunacy Act, 1890.
- 4 **Urgency Order** for the Reception of a Private Patient, with (2) Statement of Particulars, and (8 and 9) Certificate of Medical Practitioner, and Statement accompanying Urgency Order.
- 5 **Certificate** as to Personal Interview after Reception.
- 6 **Notice** of Right to Personal Interview.
- 7 **Notice** of Desire to have a Personal Interview.
- 8 **Certificate** of Medical Practitioner.
- 10 **Certificate** as to Pauper Lunatic in a Workhouse (14 days' detention).
- 11 **Order** for Detention of Lunatic in Workhouse, with Statement of Particulars.
- 11* **Order** of Removal by Two Visitors of Pauper Lunatic from Licensed House, &c., to County Asylum.
- 12 **Order** for Reception of a Pauper Lunatic, or Lunatic Wandering at Large, with Statement of Particulars and Certificate annexed.
- 13^d **Reports and Certificates** (Lunacy Act, 1890, s. 115).
- 14 **Consent of Commissioners in Lunacy** to the Admission of a Boarder.
- 35 **Notice** of Reception of Boarder.
- 36 **Notice** of Result of Examination on Admission.
- 37 **Notice** of Admission of Alien Lunatic.

No.

- 15 **Order** for Reception of a Lunatic not under proper Care and Control, or Cruelly Treated or Neglected, to be made by a Justice appointed under the Lunacy Act, 1890, with Statement of Particulars.
- 16 **Certificate** of Disability of Person entitled to Payments from a Public Department.
- 17 **Medical Certificate** of ditto.
- 19 **Form of Licence** by Justices for a House not previously Licensed.
- 20 **Licence by Commissioners** or Justices for a House previously Licensed.
- 23 **Certificate** of Medical Officer of Asylum that a Pauper Lunatic Discharged from Asylum not Recovered is a proper person to be kept in Workhouse (s. 25).
- 24 **Notice of Appointment** for consideration of a Petition for an Order for Reception of a Private Lunatic (s. 6).
- 25 **Certificate** of Medical Officer of Workhouse as to Lunatic Discharged from Asylum (s. 25).
- 26 **Relieving Officer's Requisition** to Master of Workhouse to receive Lunatic until he can be taken before a Justice (s. 20).
- 27 **Justices' Order** to take Lunatic to Workhouse in case where Summary Reception Order might be made (s. 21).

Notice *re* Patients' Letters.

							s.	d.
	Patients' Book	...	...	...	...	2 quires	8	6
1a	Civil Register of Patients in the prescribed form, carefully spaced, bound in <i>half-white vellum</i>	...	...	...	...	1 quire	9	0
	Do. do.	...	...	...	...	2 quires	12	0
	Do. do.	...	...	...	...	3 „	15	0
1b	Medical Register of Patients , divided into two portions, divided by a vellum tab. (a) Direct admissions. (b) Cases admitted under an Order of Transfer. Bound in <i>half-white vellum</i>					1 quire	9	0
	Do. do.	...	...	...	...	2 quires	12	0
	Do. do.	...	...	...	...	3 „	15	0
	<i>This Register can be lettered for Male or Female as required.</i>							
1b*	Medical Register of Patients , divided into two portions by vellum tab for Male and Female Cases, and sub-divided for direct admissions and for cases admitted under an Order of Transfer (<i>suitable for smaller Institutions</i>)	...	...	...		2 quires	12	6
	Do. do.	...	...	...	...	3 „	16	0
	Do. do.	...	...	...	...	4 „	21	0

No.							s	d.
2a	Register of Discharges and Transfers , properly arranged and spaced, bound <i>in half-white vellum</i>	1 quire	9	0				
	Do. do.	2 quires	12	0				
	Do. do.	3 „	15	0				
2b	Register of Deaths , bound <i>in half-white vellum</i> ...	1 quire	9	0				
	Do. do.	2 quires	12	0				
	Do. do.	3 „	15	0				
<i>By paragraph 4 of Rule 1 of the Rules of 1906: "In every Institution for Lunatics into which Private and Pauper Patients are admitted the Registers and Medical Journals for each Class of Patients may be kept in separate books or parts of books."</i>								
R 3	Medical Journal to be kept at Asylums, Hospitals, and Licensed Houses, bound <i>half-white vellum</i>	books of 2 quires	12	0				
	Do.	„ 3 „	15	0				
R 4	Medical Journal for Single Patients, <i>quarter bound</i>		2	6				
R 5	Register of Mechanical Restraint , bound <i>half-white vellum</i>	books of 1 quire	8	0				
	Do. do. for Single Patients... ..	„ 1 „	2	6				
	Do. do.	„ 2 quires	12	0				
	Do. do.	„ 3 „	15	0				
R 5a	Do. do. Loose Sheets for sending Copies of Entries to Commissioners every quarter (see Rule 18) ...	<i>per quire</i>	4	0				
R 5b	Order and Instructions for Mechanical Restraint ... <i>in books of 50</i>		2	6				
	Do. do.	„ 100	4	6				
R 6	Register of Voluntary Boarders , bound <i>half-white vellum</i> , books of 2 quires		12	0				
E	Medical Case Book. Foolscap folio	<i>half-white vellum</i>	8	6				
R 7	Post Mortem Book , <i>in books 1 quire each, half-white vellum</i>		10	0				
R 7a	Do. do. Loose Sheets for sending copies of entries to the Commissioners under Rule 15	<i>per quire</i>	3	0				
R 8	Notice of Admission , Pauper or Criminal Patient, with Medical Statement subjoined, and Copy of Order and Certificate annexed,	<i>per quire</i>	3	0				
R 8b	Do. do. Lunatic not under proper care and Control, or Cruelly Treated or Neglected	<i>per quire</i>	4	0				
R 9	Do. do. (Private Patient) printed by itself	<i>per quire</i>	3	0				

No.		s.	d.
R 9a	Notice of Admission (Private Patient) with copy of the Order, and Medical Certificates, and of the Petition and Statement of Particulars <i>per quire</i>	5	0
R 9c	Do. do. with Copy of URGENCY ORDER and Medical Certificates <i>per quire</i>	5	0
R 10	Medical Statement <i>per quire</i>	3	0
R 11	Notice of Admission of Boarder <i>per quire</i>	3	0
R 12	Notice of Transfer from the Criminal to the Pauper Class, together with Copy of Justices' Order on which he is detained <i>per quire</i>	3	0
R 13	Report as to Private Patient to be sent at the expiration of one month after reception, 500 with name of Asylum, &c. 18s. , <i>per quire</i>	3	0
R 14	Notice of Removal , 500 with name of Asylum, &c., 18s. , „	3	0
R 15	Notice of Discharge do. do. 18s. , „	3	0
R 16	Notice of Escape do. do. 18s. , „	3	0
R 17	Notice of Re-capture do. do. 18s. , „	3	0
R 18	Notice of Transfer from Private to Pauper Class or <i>vice versa</i> „	3	0
R 19	Special Reports and Certificates as to Patients admitted under Order dated three months or more prior to May 1st, 1890 (Lunacy Act, 1890, s. 38; Lunacy Act, 1891, s. 7) <i>per quire</i>	3	0
R 20	Special Report and Certificate , Private or Pauper Patients (Lunacy Act, 1890, s. 38; Lunacy Act, 1891, s. 7)... .. <i>per quire</i>	3	0
R 21	Notice of Death , 500 with Name of Asylum, &c., 18s. , with Statement respecting Patient <i>per quire</i>	3	0
R 22	Half-yearly List of Pauper Patients in Asylum <i>per quire</i>	4	0
R 23	Half-yearly List of Private and Criminal Patients in Asylum „	4	0
R 23a	Return of Names of all Patients and Boarders on the Books „	3	0
R 24	Quarterly List of Pauper Lunatics not in an Institution for Lunatics to be made by Poor Law Medical Officers <i>per quire</i>	3	0
R 25	Quarterly Return where there are no such Lunatics ... „	3	0
R 26	Annual Return of all Lunatics chargeable to be made by Clerks to Boards of Guardians... .. <i>per quire</i>	4	0
R 26a	Do. do. ruled with red lines ... „	5	0
R 27a*(Rule 31)	Half-yearly Statement of the Mental and Bodily Condition of every Pauper Lunatic in Asylum to be sent to Guardians <i>per quire</i>	3	0
R 28a (Rule 28)	Notice of Change in Medical Staff <i>per quire</i>	3	0

ASYLUM OFFICERS' SUPERANNUATION ACT, 1909.

List of Account Books for the purpose of administering the provisions of the above Act.

No.		s.	d.
1	Service Register , with obligation, demy size, ruled and printed with Index at front, strongly <i>half-bound vellum</i> , folioed 240 openings	30	0
1a	Do. do. without obligation, demy size, ruled and printed with Index at front, strongly <i>half-bound vellum</i> , folioed 240 openings	30	0
1b	Do. do. with obligation, arranged on the Loose Leaf System, specially designed and adapted for large Asylums.		
1c	Do. do. without obligation, arranged on the Loose Leaf System, specially designed and adapted for large Asylums. <i>The advantage of this form of Register, 1b and 1c, is that it lasts for an indefinite period and always only contains particulars of the current Staff. As soon as an officer leaves or dies the sheet relating to his service is removed and filed in the Transfer Case.</i>		
The equipment necessary for this system is:—			
	Shaws' "Perpetual" Loose Leaf Binder , accommodating from 150 to 500 sheets, with Index at front, also divisions separating officers, attendants, and workmen ... <i>whole bound in pigskin</i>	63	0
	... <i>or half-bound in pigskin</i>	55	6
	Service Register Sheets , 13 $\frac{3}{4}$ in. by 12in., ruled, printed, creased and punched to fit the above Binder ... <i>per 250 sheets</i>	35	0
	... <i>per 500 sheets</i>	65	0
	Transfer Binding Case , for storing (in alphabetical order) Sheets relating to Officers who have left or died, with capacity for filing 1,000 sheets... <i>half-bound basil</i>	26	6
	... <i>bound whole canvas</i>	23	0
2	Certificate of Service , to be given to an Officer on leaving the service of the Asylum, printed on strong paper <i>in books of 50</i>	4	6
	... <i>in books of 100</i>	7	6
3	Notice to Visiting Committee of intention to contract out <i>per 50</i>	1	6
	... <i>per 150</i>	3	6

No.		s.	d.
4	Register of Pensions and Gratuities , containing two patterns, size of leaf, 13 by 11, ruled, printed, and <i>bound half vellum</i> 40 openings	15	0
5	Workmen's Weekly Wages Account , one month on an opening, size of leaf, 15 by 16½, ruled, printed, and <i>bound half vellum</i> 50 openings 100 openings	15 21	0 0
5a	Do. do. arranged with long and short leaves, to show one quarter on an opening, size of leaf, 15 by 20½, ruled, printed, and <i>bound half vellum</i> 40 openings	21	0
6	Summary of Workmen's Wages and Pension Contributions , size of leaf, 13½ by 12, ruled, printed, and <i>bound half vellum</i> 50 openings	12	6
6a	Summary of Monthly Salaries and Contributions , similar to above 50 openings <i>This Book is intended for Asylum Clerks who prefer to summarise yearly before posting into Service Register.</i>	12	6
7	Officers' Monthly Salaries Book , one quarter on an opening, size of leaf, 17 by 16, ruled, printed, and <i>bound half vellum</i> 50 openings	18	0
7a	Do. do. arranged with long and short leaves, to show one year on an opening, size of leaf, 18 by 18 ... 30 openings	21	0
8	Attendants' and Servants' Salaries Book , one quarter on an opening, size of leaf, 17 by 16, ruled, printed, and <i>bound half vellum</i> 50 openings 100 openings	18 25	0 0
8a	Do. do. arranged with long and short leaves, to show one year on an opening, size of leaf, 18 by 18 ... 50 openings	25	0
9	Officers' Quarterly Salaries Book , size of leaf, 15 by 10, ruled, printed, and <i>bound half vellum</i> 40 openings <i>This is intended for Asylums where all Officers are paid quarterly.</i> <i>N.B.—All books are lettered in gold on back and side with the title of the book. Subject to moderate extra charge, the style of binding can be varied; also the name of Asylum printed in.</i>	15	0
Table of Deductions from Salaries and Emoluments under the Poor Law Officers' Superannuation Act, 1896, which will prove of assistance in calculating the deductions under the Asylum Officers' Superannuation Act, 1909			
		1	0

MENTAL DEFICIENCY ACT, 1913, (3 & 4 Geo. 5, Ch. 28)

And Provisional Regulations of the Home Office.

Dated April 2nd, 1914.

No.		s. d.
DP 1	Petition for an Order sending a Defective to an Institution or Certified Home, or placing him under Guardianship, presented by a Relative or Friend <i>per quire</i>	3 0
DP 2	Do. do. presented by an Officer of the Local Authority <i>per quire</i>	3 0
DP 3	Statement of Particulars to accompany Petition ... <i>per quire</i>	3 0
DP 4	Medical Certificate <i>per quire</i>	3 0
DP 5	Certificate as to the Impracticability of a Medical Examination <i>per quire</i>	3 0
DP 6	Statutory Declaration to accompany Petition ... <i>per quire</i>	3 0
DP 7	Order sending a Defective to an Institution or Certified Home, or placing him under Guardianship <i>per quire</i>	3 0
DP7a	Statement of Reasons for dismissing Petition ... <i>per quire</i>	3 0
DP 8	Statement of Particulars concerning Defective placed by Parent or Guardian in a Certified Institution or Home ... <i>per quire</i>	3 0
DP4&9	Certificate by Judicial Authority in the case of a feeble-minded Person or Moral Imbecile under the age of 21, placed by his Parent in an Institution or Certified Home ... <i>per quire</i>	3 0
N	Notice of Reception <i>per quire</i>	3 0

NOTICES OF ADMISSION.

For the purpose of sending Notice of Admission to the Board of Control, the following sets of Forms have been made up :—

Petition of Relative or Friend.

MD1	Notice of Admission (R1) of Defective on Petition of Relative or Friend with Order (P7), Petition (P1), Statement of Particulars (P3), Statutory Declaration (P6), and two Medical Certificates (P4), attached <i>per quire</i>	5 0
MD2	Notice of Admission (R1) of Defective <i>where Medical Examination impracticable</i> , with Order (P7), Petition (P1), Statement of Particulars (P3), Statutory Declaration (P6), Certificate as to Impracticability (P5), and one Medical Certificate (P4) attached <i>per quire</i>	5 0

Petition of Officer of Local Authority.

No.					
MD3	Notice of Admission (R1) of Defective on Petition of Officer of Local Authority, with Order (P7), Petition (P2), Statement of Particulars (P3), Statutory Declaration (P6), and two Medical Certificates (P4) attached <i>per quire</i>				5 0
MD4	Notice of Admission (R1) of Defective <i>where Medical Examination impracticable</i> , with Order (P7), Petition (P2), Statement of Particulars (P3), Statutory Declaration (P6), Certificate as to Impracticability (P5), and one Medical Certificate (P4), attached <i>per quire</i>				5 0
<hr/>					
MD5	Notice of Admission (R1) of <i>Idiot or Imbecile</i> placed by Parent or Guardian in Certified Institution or Home, with Statement of Particulars (P8), and two Medical Certificates (P4), attached <i>per quire</i>				3 0
MD6	Notice of Admission (R1) of a <i>Feeble minded Person or Moral Imbecile</i> placed by Parent or Guardian in Certified Institution or Home, with Statement of Particulars (P8), Medical Certificate (P4), and Certificate of Judicial Authority (P9), attached <i>per quire</i>				3 0
C 3	Application for a Certificate for a Certified Home				
				2d. each or <i>per doz.</i>	1 6
A 1	Application for an Approval for an Approved Home				
				2d. each or <i>per doz.</i>	1 6
D1	Special Report by Visitors <i>per quire</i>				3 0
D 2	Special Report and Certificate <i>per quire</i>				3 0
DR 1	Notice of Admission <i>per quire</i>				3 0
DR 2	Notice of Transfer from Private to Aided Class, or vice versa, to be given to the Board of Control <i>per quire</i>				3 0
DR 3	Notice of Removal of Patient , to be given to Board of Control <i>per quire</i>				3 0
DR 4	Notice of Discharge do. 500, name printed in				18 0
	Do. do. <i>per quire</i>				3 0
DR 5	Notice of Escape do. 500, name printed in				18 0
	Do. do. <i>per quire</i>				3 0
DR 6	Notice of Re-capture do. 500, name printed in				18 0
	Do. do. <i>per quire</i>				3 0

No.		s.	d
DR 7	Notice of Death , with Statement respecting the Patient, to be given to Board of Control 500, <i>name printed in</i>	18	0
	Do. do. <i>per quire</i>	3	0
DR 8	List of all Aided Patients in Certified Institution, Certified Home, or Approved Home <i>per quire</i>	3	0
DR 9	List of all Private Patients in Certified Institution, Certified Home, or Approved Home <i>per quire</i>	3	0
DR 10	Register of Admissions in the prescribed form... 1 <i>quire, half-bound</i>	9	0
	Do. do. ... 2 <i>quires, „</i>	12	0
DR 11	Register of Removals, Discharges, and Deaths , in the prescribed form 1 <i>quire, half-bound</i>	9	0
	Do. do. ... 2 <i>quires, „</i>	12	0
DR 12	Register of Mechanical Restraint , in the prescribed form 1 <i>quire, half-bound</i>	9	0
	Do. do. ... 2 <i>quires „</i>	12	0
DR 12a	Loose Sheets for sending Copies of Entries to the Board of Control every quarter (Rule 94 (k)) <i>per quire</i>	4	0
DR 13	Medical Journal to be kept at Certified Institutions, Certified Homes, and Approved Homes, in the prescribed form 1 <i>quire, half-bound</i>	9	0
	Do. do. ... 2 <i>quires „</i>	12	0
DR 14	Medical Journal for Patients under Guardianship, and for Single Patients, in the prescribed form <i>quarter-bound</i>	2	6
<p>Case Book (Rules 88 & 92). Many institutions have of recent years found the loose leaf system best adapted for this book, and it is suggested that that style might be adopted with advantage, though bound books can be supplied if preferred. Specimen Form of Case Book, with particulars of the "Eureka" Loose Leaf binding covers, sent on application.</p>			
Medical Register (Rule 88). When directed to be kept.			
		<i>half-bound, 1 quire</i>	9 0
	Do. do. „ 2 <i>quires</i>	12	0
	Visitors' Book (Rule 88). Foolscap, bound $\frac{1}{2}$ vellum ... 2 <i>quires</i>	10	0
	Patients' Book (Rule 88) 2 „	8	6
	Notice as to rights in Letter Writing <i>per doz.</i>	1	0

REGISTER AND CARDS

*as prescribed by the Board of Control in accordance with the Provisional Regulations dated
2nd April, 1914.*

						s.	d.
Register of Defectives , in the prescribed form, to be kept by Local Authorities, with Title Page and Instructions comprising the Schedules in the front, bound in $\frac{1}{2}$ -white Vellum ... 2 quires						35	0
Do.	do.	...	...	3 quires		45	0
Do.	do.	...	...	4 quires		55	0
Card Index to Register of Defectives , 8 by 10, in the form prescribed (Regulation 11) per 100						6	0
Do.	do.	...	...	per 250		13	0
Do.	do.	...	...	per 500		25	0
Do.	do.	...	...	per 1,000		45	0

Two Cards will be required in respect of each Patient, a copy having to be sent to the Board of Control.

Cartridge Envelopes addressed to the Board of Control for transmission of the copies of the above cards per 500						17	6
Do.	do.	...	...	per 100		4	0
Enquiry Note Books , in which to record the result of enquiries and the necessary information for the above Register						3	0

Patients' Record Cards. 10 by 8, as prescribed

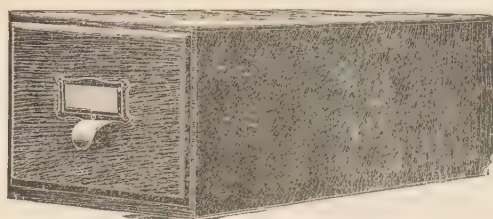
		Certified Institutions	Blue Card				
Do.	do.	Certified Houses	...	Pink Card			
Do.	do.	Approved Homes	...	Grey Card			
Do.	do.	In Private Care		Brown Card			
Do.	do.	Guardianship		Green Card			
The above cards supplied at the following prices per 100						6	0
						per 250	13 0
						per 500	25 0
						per 1,000	45 0

Two Cards will be required in respect of each Patient, a copy having to be sent to the Board of Control.

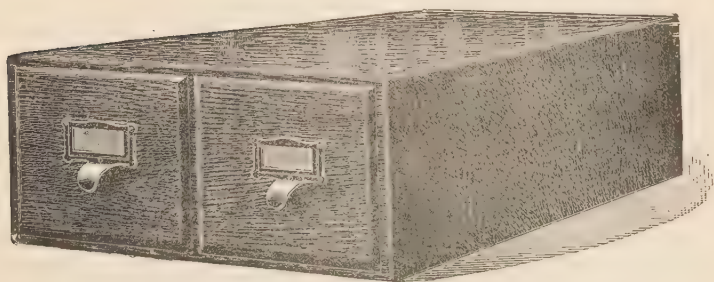
Cartridge Envelopes addressed to the Board of Control for transmission of the copies of the above cards per 25						1	6
Do.	do.	...	...	per 50		2	6
Do.	do.	...	...	per 100		4	0

CABINETS FOR STORING CARDS.

(Capacity 1,000 cards per drawer.)



ONE DRAWER CABINET.



TWO DRAWER CABINET.

1st Quality. Selected Quartered Oak, polished a rich golden colour, very strongly made, fitted with follower block, brass label holder and drawer pulls, and Steel Rollers to ensure easy running.

2nd Quality. Fumed Oak, do. do.

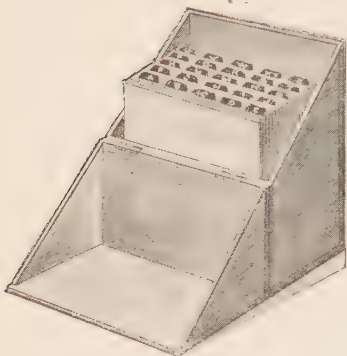
PRICES.

1ST QUALITY.					2ND QUALITY.				
No.	1	2	3	4	£ s. d.	No.	5	6	7
1	1	Drawer	...	1	7 6	5	1	Drawer	...
2	2	"	...	2	8 0	6	2	"	...
3	3	"	...	3	10 0	7	3	"	...
4	4	"	...	4	12 0	8	4	"	...
									£ s. d.
									1 1 0
									1 14 6
									2 9 6
									3 2 0

A—Z Guide Cards (10 in. by 8 in.) 4/- per set of 25.

OAK CABINETS

To hold 100 Cards and Index.



Price 12/6 each,

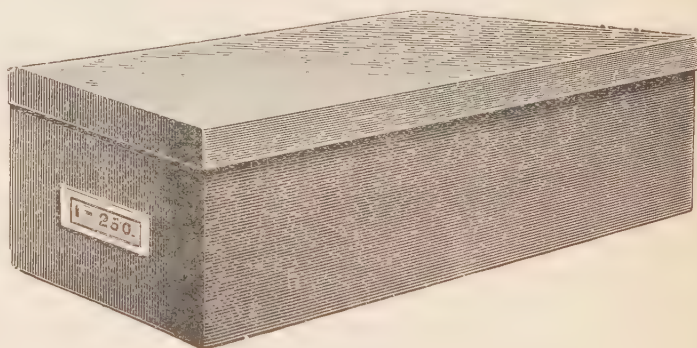
Complete with A—Z Index,

Or Case only 8/6 each.

CLOTH COVERED FILING CASES.

A Cheaper Quality. To accommodate approximately 1,000 10 in. × 8 in. Cards.

Wood, covered Maroon Cloth, with Stiff Cloth Take-off Lid, and with Wood Follower Sliding Block. Brass Ticket Holder. 14 inches back to front.



7/6 each.

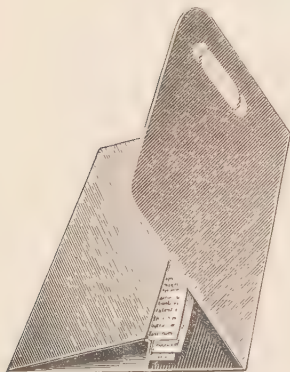
84/- per dozen.

TRANSFER BOX.

Strong Millboard Box for storing Cards, 10 in. × 8 in., covered Maroon Cloth, with Lift-off Lid; 12 in. back to front.

4/- each.

45/- per dozen.



MANILLA CASES

For holding Cards.

2/6 per dozen.

18/- per 100.

Or Manilla Cloth Lined,

3/6 per dozen.

27/6 per 100.

THE SUMMARY JURISDICTION (Mental Deficiency Act).

Provisional Rules, 1914, dated March 20th, 1914.

Price 3/- per quire.

No.

- I **Application for Order** determining place of Residence.
- Ia **Summons,** do.
- II **Order,** do.
- III **Application for an Order** transferring liability.
- IIIa **Summons,** do.
- IV **Order,** do.

PROVISIONAL REGULATIONS.

(Supplementary to the Provisional Regulations dated 2nd April, 1914.)

Price 3/- per quire.

- O1 **Application for a Contribution Order.**
- O2 **Order to Contribute.**
- O3 **Application to Vary Order.**
- O3a **Order Varying Order.**
- G1 **Detention Order** in case of Offence triable summarily.
- G2 **Do.** in case of Indictable Offence.
- G3 **Do.** in case of Child liable to be sent to Industrial School.
- G4&5 **Detention Order** pending Presentation of Petition in case of either an Indictable or Summary Offence.
- G6 **Do.** pending Presentation of Petition in case of Child liable to be sent to an Industrial School.

LIST OF FORMS REQUIRED BY LOCAL EDUCATION AUTHORITIES

Under the Provisional Regulations and Model Arrangements of the Board of Education.

No.		s	d.
A	Certificate that child is not incapable by reason of mental defect of receiving benefit from the instruction in an ordinary Public Elementary School <i>in books of 100 with counterpart</i>	1	0
Do.	do. <i>per dozen books</i>	9	0

No.		s.	d.
B	Certificate that child is feeble-minded but not incapable by reason of mental defect of receiving benefit from instruction in a special school... .. <i>in books of 100</i>	1	0
	Do. do. <i>per dozen books</i>	9	0
C	Certificate that child is incapable of receiving instruction in a special school or class <i>in books of 100</i>	1	0
	Do. do. <i>per dozen books</i>	9	0
D	Certificate that child is incapable of receiving further benefit from instruction in a special school or class ... <i>in books of 100</i>	1	0
	Do. do. <i>per dozen books</i>	9	0
E	Certificate that child cannot be instructed in a special school or class without detriment to the interests of the other children <i>in books of 100</i>	1	0
	Do. do. <i>per dozen books</i>	9	0
F	Report on Child examined for Mental Deficiency ... <i>per quire</i>	3	0
	<i>It is suggested that Form F may conveniently be printed in a style suitable for binding in a loose leaf binder.</i>		
	<i>Further particulars and prices on application.</i>		
	Report by School Attendance Officer of the names and addresses of all children not in attendance at school who appear or are reputed to be defective within the meaning of the Mental Deficiency Act, 1913... .. <i>per quire</i>	3	0

The provisional Regulations made by the Secretary of State with the concurrence of the Local Government Board, under Sec. 30, Proviso ii. of the above Act, provide that where certain specified circumstances exist and contribute a special reason why an alleged defective should be dealt with under the above Act, the Guardians may report the case to the Local Government Board in the form prescribed. With a view to enabling Guardians to effectively and easily take advantage of the provisions of these Regulations, it is suggested that the following Records will prove of assistance:—

No.		s.	d.
MD 1	Register of Defectives to be kept by the Master of the Institution from information supplied by the Relieving Officer and supplemented by Medical Certificate. In the case of out-door cases the Register would be kept by the Relieving Officer himself, and as in the case of the Institutional Register, the information readily obtainable would be supplemented by Medical Certificate. Separate sections or separate Registers should be kept for each sex <i>in books, ½-quire, cloth bound</i>	6	0
	Do. do. <i>in books, 1 quire ; ½-quire Males and ½-quire Females</i>	10	0

No.		s.	d.
MD 1	*Register of Defectives, for Outdoor Cases $\frac{1}{2}$ -quire	6	0
	Do. do. ... 1 quire ; $\frac{1}{2}$ -quire Males and $\frac{1}{2}$ -quire Females	10	0
MD 2	Notice by Relieving Officer to Master , with details to enable the Master to record the case in the Register, and so ensure the special attention of the Medical Officer being drawn to the case.		
	per doz.	1	0
	Do. do. per 50	3	0
MD 3	Notification by Master to Medical Officer. This notice is in the form of a letter with fly-leaf certificates. The first certificate to be filled up by the Medical Officer if he does not support the allegation of mental defectiveness, and the second to be used in cases where he is satisfied the person concerned is mentally defective and also certifying the degree of mental deficiency.		
	per doz.	1	6
	Do. do. per quire	3	0
MD 4	Notification by Relieving Officer to Medical Officer. A Form with Certificates on similar lines to No. 3 per doz.	1	6
	Do. do. per quire	3	0
MD 5	Report of Medical Officer to Guardians on the suitability of a Case for Report to the Local Government Board. If the Medical Officer is of opinion that a particular case could be more suitably dealt with by the Local Authority under the Mental Deficiency Act than could be done by the Guardians under their existing powers, he will then certify to that effect to the Clerk for presentation to the House, Relief, or other Committee, who will then be able to consider, in the light of medical opinion, whether to proceed and report per doz.	1	0
	Do. do. per quire	3	0
MD 6	Form of Report to the Local Government Board , in the prescribed form per quire	3	0

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LUNACY PRACTICE

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A Practical Guide for the Certification and Detention of Persons of Unsound Mind.

BY

WILLIAM H. GATTIE,

Of Gray's Inn, Barrister-at-Law.

It has been the Author's aim to set forth some of the necessary formalities for the reception of Patients into Institutions for the Insane, to give as concisely as possible useful information relative to the Lunacy Acts, and to provide a "Guide" which will be of use to Medical Practitioners and others who may be called upon to administer to the immediate requirements of Persons of Unsound Mind.

CONTENTS.

CHAPTER

- I.—Usual Formalities for the Admission of a Private Patient into an Asylum, Hospital or Licensed House on an Order of a Justice of the Peace or other Judicial Authority, with examples and requirements.
- II.—The Urgency Order. Its use, form and requirements.
- III.—The Summary Reception Order.
- IV.—The Admission of a Pauper Patient into an Asylum, Hospital or Licensed House. Other modes of Admission of Patients into Institutions for the Insane. The Transfer of the Insane from one Institution to another.
- V.—Absence of Patients from Institutions for the Insane on Leave. The Discharge of Patients from Institutions for the Insane.

CHAPTER

- VI.—The Reception, Restrictions and Discharge of Voluntary Boarders in Institutions for the Insane.
- VII.—The Treatment of the Insane as Single Patients in Private Care and the necessary formalities for Reception and Detention. Examples of forms for Detention, Discharge, Death, etc., of Private Patients in Institutions or in Private Care.
- VIII.—The Choice of an Asylum, with a list of some of the leading Institutions for the Reception of Private Patients.
- IX.—Information respecting Private Patients for the use of Justices of the Peace specially appointed under the Lunacy Act of 1890.

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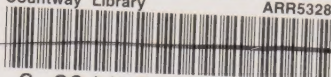
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